

TIGARD CITY COUNCIL  
MEETING

NOVEMBER 23, 2004 6:30 p.m.

TIGARD CITY HALL  
13125 SW HALL BLVD  
TIGARD, OR 97223



PUBLIC NOTICE:

Anyone wishing to speak on an agenda item should sign on the appropriate sign-up sheet(s). If no sheet is available, ask to be recognized by the Mayor at the beginning of that agenda item. Citizen Communications items are asked to be two minutes or less. Longer matters can be set for a future Agenda by contacting either the Mayor or the City Manager.

Times noted are estimated; it is recommended that persons interested in testifying be present by 7:15 p.m. to sign in on the testimony sign-in sheet. Business agenda items can be heard in any order after 7:30 p.m.

Assistive Listening Devices are available for persons with impaired hearing and should be scheduled for Council meetings by noon on the Monday prior to the Council meeting. Please call 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

Upon request, the City will also endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting by calling: 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

SEE ATTACHED AGENDA

A G E N D A  
TIGARD CITY COUNCIL BUSINESS MEETING  
NOVEMBER 23, 2004

6:30 PM

- STUDY SESSION
  - > DISCUSS COUNCIL LAPTOPS/ISSUES
  - > FOREST DEFERRAL AMENDMENT PROCESS
- EXECUTIVE SESSION: The Tigard City Council will go into Executive Session to discuss Pending Litigation under ORS 192.660(2)(h). All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

7:30 PM

1. BUSINESS MEETING
  - 1.1 Call to Order - City Council & Local Contract Review Board
  - 1.2 Roll Call
  - 1.3 Pledge of Allegiance
  - 1.4 Council Communications & Liaison Reports
  - 1.5 Call to Council and Staff for Non-Agenda Items
2. CITIZEN COMMUNICATION (Two Minutes or Less, Please)
3. CONSENT AGENDA: These items are considered to be routine and may be enacted in one motion without separate discussion. Anyone may request that an item be removed by motion for discussion and separate action. Motion to:
  - 3.1 Approve Council Minutes for October 26, 2004
  - 3.2 Local Contract Review Board
    - a. Amend Engineering Design Services Contract on Hall Blvd/Wall St Intersection Project
    - b. Approve the Purchase of Three (3) Hybrid Vehicles for Building Division Use
    - c. Approve the Purchase of Two (2) Half-Ton Pickups for Police Department
  - 3.3 Intergovernmental Agreement for Towing Services

- *Consent Agenda - Items Removed for Separate Discussion: Any items requested to be removed from the Consent Agenda for separate discussion will be considered immediately after the Council has voted on those items which do not need discussion.*
4. **JOINT MEETING WITH STATE SENATOR and STATE REPRESENTATIVE**
    - State Senator, Ginny Burdick
    - State Representative, Larry Galizio
  5. **FORMAL GRADUATION OF TIGARD'S COMMUNITY EMERGENCY RESPONSE TEAM (CERT) VOLUNTEER PROGRAM CLASS II**
    - Staff Report: Dennis Koellermeier, Public Works Director
  6. **PUBLIC HEARING (INFORMATIONAL) – CONSIDER RESOLUTION FORMING SANITARY SEWER REIMBURSEMENT DISTRICT NO. 32 (Fern Street)**
    - a. Open Public Hearing
    - b. Summation by Gus Duenas, City Engineer
    - c. Public Testimony
    - d. Staff Recommendation
    - e. Council Discussion
    - f. Close Public Hearing
    - g. Council Consideration: Resolution No. 04-\_\_\_\_\_
  7. **PUBLIC HEARING (INFORMATIONAL) – CONSIDER RESOLUTION FORMING SANITARY SEWER REIMBURSEMENT DISTRICT NO. 33 (Walnut Street)**
    - a. Open Public Hearing
    - b. Summation by Gus Duenas, City Engineer
    - c. Public Testimony
    - d. Staff Recommendation
    - e. Council Discussion
    - f. Close Public Hearing
    - g. Council Consideration: Resolution No. 04-\_\_\_\_\_
  8. **PUBLIC HEARING – REVISED PARKS SYSTEM DEVELOPMENT CHARGE METHODOLOGY AND RATES**
    - a. Open Public Hearing
    - b. Staff Report: Dennis Koellermeier, Public Works Director
    - c. Public Testimony
    - d. Close Public Hearing

- e. Council Direction to Schedule Adoption of Resolution for December 14, 2004 Business Meeting.

9. COMPREHENSIVE PLAN UPDATE PROCESS DISCUSSION

- Staff Report: Barbara Shields, Long Range Planning Manager

10. PUBLIC HEARING – CONSIDERATION OF AN ORDINANCE PROVIDING A PROCESS FOR CONSIDERATION OF WRITTEN DEMANDS FOR COMPENSATION UNDER 2004 BALLOT MEASURE #37, ADDING A NEW CHAPTER 1.20 TO THE TIGARD MUNICIPAL CODE.

- a. Open Public Hearing
- b. Summation by Barbara Shields, Long Range Planning Manager
- c. Public Testimony
- d. Staff Recommendation
- e. Council Discussion
- f. Close Public Hearing
- g. Council Consideration: Ordinance No. 04 - \_\_\_\_\_

9:55 PM

11. COUNCIL LIAISON REPORTS

10:00 PM

12. NON AGENDA ITEMS

10:05 PM

13. ADJOURNMENT

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Agenda Item No. SS-2  
Meeting of 11/23/04



## MEMORANDUM

### CITY OF TIGARD

TO: City Council

FROM: Jim Hendryx 

DATE: November 10, 2004

SUBJECT: Forest Deferral Amendment Process

Concern has been raised about a provision in the Community Development Code (Section 18.790) which exempts treed properties under forest deferral from the provisions of the code that govern tree removal. Specifically, properties registered with the Washington County Assessor's Office as tax deferred tree farms or small woodlands, are not required to have a removal permit.

I am requesting Council direction prior to proceeding with any code amendment. This follows Council's discussion with the Tree Board on November 16, 2004. The Tree Board has been reviewing several provisions of the tree removal standards with particular attention to enforcement and administration of the provisions of the code.

At the study session on Tuesday, staff will present a map showing all the properties, both in the Urban Services Area and inside the City limits, that are designated forest deferral. Several properties have been logged. This will also be noted on the map.

Washington County adopted Tigard's tree code provisions with the intergovernmental agreement for the Urban Services Area. Council can only modify the City's tree provisions; the County would be required to take separate action to reflect any changes Tigard makes to the County's code for the Urban Services Area. Should the IGA be terminated, the County would need to consider how they want to continue with land use and tree regulations for the Urban Services Area.

It is important to weigh any potential amendments to the tree removal standards with the recently passed Measure 37. Measure 37 requires either compensation or waiving of land use regulations, etc., that diminish the value of property. Arguably, imposing strict mitigation standards could be considered lessening the value of properties under forest deferral. It is important to state, however, that it is too early to fully understand the impacts of Measure 37.

COUNCIL MINUTES  
TIGARD CITY COUNCIL MEETING  
October 26, 2004

The meeting was called to order at 6:30 p.m. by Mayor Dirksen.

Council Present: Mayor Dirksen, Councilors Sherwood, Wilson, and Woodruff. Councilor Moore was excused.

- STUDY SESSION

- > PERMIT CENTER UPDATE

In response to a request from Loreen Mills, Risk Management, Councilors stated they did not have any concerns about the Budget Amendment to fund additional costs for the Permit Center.

- > CONTINUED DISCUSSION OF 360 REVIEW

Sandy Zodrow, Human Resources Manager, stated she had provided a recap of the Council's discussion held on September 28, at which time Mr. Monahan had provided information about the ICMA Performance Assessment Program to be used by Council as an evaluation tool of Mr. Monahan. She then distributed a copy of the assessment profile used by the School District (Agenda Item SS, Exhibit 1), copy on file with the City Recorder. If Council wants to use the ICMA Performance Assessment Program, she will have to order the documents and Council determines a schedule from now to the end of the year and identifies the raters. She suggested the Council suggest a list of proposed raters.

Mr. Monahan reviewed the process and the list of raters the School District used to evaluate the superintendent, which could be used as a starting point. The material he had provided from ICMA also listed possible raters. He suggested Councilors submit their ideas to the Mayor, who will then review the list with him.

The Council identified possible categories to be considered and following discussion about the process,

- The Council agreed to provide Ms. Zodrow with categories or positions identified as raters by the November 23 Council Meeting;

- The Mayor and Mr. Monahan will identify the corresponding person from the various categories;
- Ms. Zodrow will contact the persons identified to see if they would be willing to participate in Mr. Monahan's Performance Assessment Program;
- The list of raters will be approved by Council in December;
- Those selected to complete the Performance Assessment Forms will be requested to complete and return them to the Andrew Young School at the University of Georgia in January; and
- The Performance Assessments will be returned and reviewed by the Council and Mr. Monahan in advance of his annual performance review in May.

Ms. Zodrow indicated she would contact ICMA to find out the turn-around time for analysis of the 15 assessments, as well as order the forms.

Councilor Woodruff noted Councilor Moore was concerned that the ratings be anonymous.

#### > LIBRARY STRATEGIC PLANNING REPRESENTATIVE

Mr. Monahan stated Library Director Margaret Barnes has requested Council appoint a representative to the Library Strategic Planning meetings. Two meetings are currently scheduled on November 10 and January 10. Councilor Woodruff volunteered to serve on this committee but questioned what would happen if he was not elected in November. Mr. Monahan indicated Council could designate Councilor Woodruff as their representative even if he was not elected. He noted there are some council liaison roles being filled by non-council members.

#### > ADMINISTRATIVE ITEMS

##### a. Calendar Review

- November 2: Election Day
- November 4-6: LOC Conference – Marriott Hotel downtown Portland
- November 9: City Council Business Meeting – 6:30 pm
- November 11: Veterans Day- - City Hall Closed
- November 16: City Council Workshop Meeting – 6:30 pm
- November 23: City Council Business Meeting – 6:30 pm
- November 25: Thanksgiving - City Hall Closed
- November 26: City Hall Closed, but the Library will be open

- November 29-December 4: National League of Cities Conference-Indianapolis

Mr. Monahan also noted:

- The move to the Permit Center will occur the week of November 15.
- The Council is still scheduled to meet with the City of Tualatin Council and the Tigard/Tualatin School District Board on November 15, at 6:30 p.m. at the District Office. This meeting still had some details to work out, but it should be on Councilor's schedule.

> Citizen Forum November 30

Mr. Monahan noted the Water Auditorium has been scheduled for this meeting as Town Hall/City Hall will be in the process of being remodeled.

- It was determined this meeting would not interfere with Councilor Sherwood and Mayor Dirksen leaving for Indianapolis for the NLC Conference.
- It was not required that all Councilors attend the Citizen Forum, but would be held even if no quorum is present.
- This will be a noticed official public meeting.
- Staff will not be in attendance, but there will be someone present to take notes. If the City Recorder/Deputy does not attend the meeting, look into having someone from the Committee on Citizen Involvement who has been trained as a facilitator, to both facilitate and record the meeting.
- Council needs to discuss the format and what each Councilor wants to achieve from this program. There was concurrence some structure would be needed, while maintaining a casual atmosphere.
- The purpose is for citizens to have a dialogue with Councilors about issues.
- Each Councilor was requested to prepare a couple of questions or topics to ask citizens who attend.
- Staff was directed to prepare draft information on what it feels the general format should be for council discussion on November 9.
- An announcement will be put on the City's website about the first Citizens Forum on November 30.
- Council discussed possibly imposing a time limit if there were a lot of people present or so that one person does not dominate the entire evening.
- The program could be modeled after former Portland Mayor Neil Goldschmidt's "Open Line" television program.



- It may be necessary to have people sign up to find out how many people want to speak and then determine the amount of time each person has.
- Council wanted to be able to ask questions about the citizen's concern.
- The time will be from 7 to 9 p.m.

> LISTENING POST

Mr. Monahan noted a listening post is scheduled regarding the NTIP process at the Beaverton City Library, Thursday, October 28, from 5 to 8 p.m. Projects to be discussed include the potential Ash Street connection, Greenburg Road, and BPA Trail planning. Councilor Woodruff stated he would attend the first part of that meeting. Mr. Monahan stated he would have staff prepare speaking points for Councilor Woodruff.

> OTHER ANNOUNCEMENTS

- Mr. Monahan stated seven of the recent CERT graduates will be helping on crowd control at the Halloween festivities in downtown Tigard, on Friday, October 29.
- LOC Annual Meeting - Mr. Monahan noted Councilor Sherwood will not be able to attend the annual LOC meeting after all, so there will be no Council representative present. Two representatives from Senator Smith's staff will be available on Saturday. Several candidates have indicated they would like to attend if they are elected. City Staff will also be attending the conference.
- No one had questions about the proposed changes to the Council Groundrules.
- Mayor Dirksen requested the name and phone number of a person to contact at TriMet about the downtown commuter rail stations.
- Mr. Monahan noted Olivia Clark from TriMet is scheduled to attend the Council meeting on November 23 about changes of service.
- Councilor Wilson noted he attended the first meeting of the Transportation Financing Strategies Task Force and was

impressed by the caliber of people on the task force, as they are very qualified and interested in this issue. He was concerned the Committee was looking for means when the end result is not clear, and suggested Council needs to provide a clear goal for the Task Force. There is an item on tonight's Council meeting to expand the Task Force's mission statement and number of committee members. It would be easier for the Committee to identify funding if the goal was clearer.

Mr. Monahan asked if it would make sense to have a workshop meeting with the Council and Task Force to talk about their ideas and see what additional tools or information is needed to reach their goal.

Councilor Wilson suggested Council, during its goal setting session in January, target things that we would like the Task Force to accomplish. In the past, projects have slide by the side because we did not know what we really wanted to do. We can't ask for money for a project if it is still in the idea stage. That occurred with the Hwy. 99 Task Force; the problem still exists and gets larger. He suggested this group needs to target finding solutions and not just finding money.

Mayor Dirksen said it would be interesting to see what comes out of the Task Force meetings and noted the City through a multi-phased process prioritized a list of projects for the next 20 years of what needs to be done. He agreed there needed to be a clear goal, other than raise money to improve the streets. It would be nice to have something more definite.

Councilor Wilson stated a list of the standard sources would be a good start.

Councilor Sherwood indicated she agreed with Councilor Wilson. She recalled the discussion about the issues regarding Pacific Highway (Hwy. 99), and the Council decided to meet with ODOT first before doing anything. Maybe the Council needs to meet with the Task Force, to come up with ideas on how to fund transportation projects or where we can leverage dollars.

Mr. Monahan noted Matt Garrett from Region 1 of ODOT is scheduled on November 9; maybe members of the Task Force

should be invited to hear the discussion. The more they get a feel for what Council's direction is, the better. One topic Mr. Garrett will discuss is Hall Blvd. Mr. Duenas has been working with ODOT staff is the signal at the Library, and he believes they are close to an agreement.

Mayor Dirksen concurred it would be a good idea if the task force members could attend the November 9 meeting, especially since there will be new members on the Task Force.

Mr. Monahan said it will be a start to have this dialogue, and then for Council to have the Task Force's mission in front of it during goal analysis, to determine which projects can be taken on during the next year. After the goal setting, maybe Council needs to meet with the Task Force.

Gretchen Buehner said the two members being appointed tonight attended the Task Force meeting last week, so they were able to get up to speed.

Study session recessed at 7:05 p.m.

## 1. BUSINESS MEETING

- 1.1 Mayor Dirksen called the Council and Local Contract Review Board Meeting to order at 7:31 p.m.
- 1.2 Roll Call: Mayor Dirksen, Councilors Sherwood, Wilson and Woodruff were present, Councilor Moore was excused.
- 1.3 Pledge of Allegiance
- 1.4 Council Communications & Liaison Reports

Councilor Woodruff reported the Vision Task Force met last Tuesday night and presented information to the Action Committee. There was a lot of interest in the specifics results, which would be reviewed very carefully by Council at their goal setting session. There has been a commitment to come up with specific kinds of things that they could tell was being accomplished, rather in general. The Committee recognized the good work that staff had done since last spring.

Mayor Dirksen said the Council will look forward to seeing what comes out of that process.

1.5 Call to Council and Staff for Non-Agenda Items - none

2. VISITOR'S AGENDA

Mayor Dirksen noted in the future, if Council approves the resolution, the Visitor's Agenda will be called Citizen Communication.

- John Frewing, 7110 SW Lola Lane, Tigard, asked that the Council reconsider and rescind Resolution 04-77 which was passed unanimously on October 12. He noted the resolution would commit 30% of all Tigard's capital improvement funds to the Bull Mountain area for the next five years. He stated his concerns were as follows:
  - This resolution amends the annexation plan that is before the voters.
  - Council decided by consensus last week not to endorse ballot measures, but had submitted a letter to the Tigard Times last week endorsing the Bull Mountain annexation issue.
  - Today, he had received a letter from the Mayor describing Tigard's process used to formulate the Capital Improvement Project list which normally is a year-long process including citizen involvement, and this action would negate this established process to prioritize the CIP process to allocate funds for needed street drainage, pedestrian amenities and parks in Tigard.
  - This resolution and six others only became public a couple of days before Council's consideration on October 12 at a Bull Mountain CPO meeting. No public testimony was taken when Council considered and approved the resolutions on October 12.
  - In considering and approving Resolution 04-77, there was no consideration given to equal or more severe needs in the rest of the existing city limits of Tigard.
  - No findings were made that the needs of the unincorporated areas of Bull Mountain that is included in the annexation have more severe needs than the rest of Tigard.
  - Concentrating millions of dollars into the small Bull Mountain area proposed to be annexed is an affront to the trust of all the other tax payers in Tigard.

Councilor Wilson replied that while he appreciates Mr. Frewing's comments and agrees that in principal, these issues should be discussed openly and includes a public process. He disagreed that there should have been public comment on these resolutions. During the numerous public hearings and meetings held on the Bull Mountain annexation proposals, one comment made

repeatedly was there was a severe shortage of parks on Bull Mountain, both in the area already annexed but also in the area proposed for annexation. It was also noted the majority of Park SDC's collected in Tigard had been spent on Cook Park and Summerlake Park. If the area is annexed, he felt it was Bull Mountain area's turn for parks to be developed. He also noted if the proposal is approved, Bull Mountain residents would represent approximately 15% of the City's population.

Councilor Woodruff noted Council discussed this during their strategic planning session on October 1 with a lot of council discussion. He noted when Council discussed taking a position on Ballot Measure 37, one councilor stated his feeling that the City should not take a position on a state-wide ballot measure or to try to influence the city's voters, and was not the consensus of the whole council, but Council decided not to vote on that resolution for a number of reasons. The Council's action to publicly support the Bull Mountain Annexation was different in that the Council put that measure on the ballot.

Mayor Dirksen noted he agreed with Councilor Woodruff concerning the Measure 37 issue, as well as Council's urging the voters to approve the Bull Mountain Annexation. Councilors, as elected officials, can take a pro or con position. He noted the seven resolutions were developed after months of public debate and hearings, and at some point, Council has to stop taking public input and take a position, which is what they did.

Mr. Frewing noted he had seen the annexation plan but it did not promise a certain amount of money to Bull Mountain. All of a sudden, Council is committing 30% of all capital improvements in Tigard to the small area on Bull Mountain without any public involvement. This discussion and decision should have been made before the measure was put on the ballot.

- Ken Henschel, 14530 SW 144<sup>th</sup> Avenue, unincorporated Bull Mountain, and indicated he was concerned about Resolution 04-72, entitled "A resolution of the Tigard City Council confirming the commitment to a 3-year phase in of taxes of Bull Mountain residents of the Bull Mountain area." He is confused between the "3-year phase in of taxes" in this resolution and the "2-year phase in of taxes" on the Ballot Measure which put this issue on the ballot.

Mayor Dirksen responded that the 3-year phase in and 2-year phase in of taxes is a matter of semantics. Both resolutions indicated that taxpayers in the area being annexed to Tigard in the Bull Mountain Annexation to Tigard, would have their taxes phased in with 50% the first year, 75% the second year, and 100% the third year.

Mr. Henschel noted some people would disagree that the resolution is clear. He noted the way the ballot measure is written and the way some people are reading the ballot measure is that those people who reside on Bull Mountain who are already residents of the City of Tigard would have their taxes reduced by 50% the first year and 25% the second year. Roughly 700 acres of Bull Mountain are already in the City of Tigard, and they believe their taxes would be reduced if the measure is approved.

Mayor Dirksen noted there is no political entity known as Bull Mountain, and the measure put on the ballot described as Bull Mountain would only affect the area being annexed, and would not affect the existing area on Bull Mountain that has been already annexed.

Mr. Henschel noted some residents of the already annexed area on Bull Mountain read this differently. The way people are reading this, which he believes is correct, the City could lose approximately \$1 million of lost revenue if the Bull Mountain Annexation is approved. The Council should clarify what it meant, by either rescinding or rewriting that resolution to make it clear what it meant, because if the measure is approved, many of those residents will expect a reduction in their taxes, and will file suit against the city to have their taxes reduced.

Mr. Monahan noted the affected area is the area subject to the annexation, and the properties within that area would be given the phase-in of taxes of the 50% and 75%. He noted Council has been consistent on that.

Mr. Henschel noted that is not how the residents of Bull Mountain who are already part of the city are reading that.

Councilor Woodruff noted the resolutions specifically related to the area proposed to be annexed, and would be moot if the annexation does not pass. It does not affect existing City of Tigard residents/property owners, including those on Bull Mountain.

Mr. Henschel stated he understood Council's verbal explanation, but questions if that would be legal. He noted that property owners were not reading it the same way.

- Holly Shumway, 14535 SW Woodhue, unincorporated Bull Mountain, stated she was concerned about Resolution 04-78, which would "allocate park systems development charges collected after annexation of the Bull Mountain area to park and open space land acquisition on Bull Mountain." Ms. Shumway explained she attended a Washington County Board of

Commissioners meeting when they discussed the Parks SDC's, at which time she presented the CPO's resolution asking that Washington County allocate Park SDC's for parks in the Bull Mountain area. During the Commissioner's lengthy discussion on the issue, they estimated the County would raise between \$10,000 and \$300,000 in Parks SDC's but had no way to determine how the funds would be used. The Commissioners also felt the \$300,000 would not be enough to purchase any substantial piece of land on Bull Mountain for park purposes, and felt it would be more advantageous to use the SDC's on improving Cook Park, which Bull Mountain residents could easily get to. Recently when the County was about to make a decision, a developer indicated he would challenge the action as it was illegal under land use procedures to collect SDC's, and the Commissioners has deferred any further action until March 2005.

Ms. Shumway stated she as a resident of the Bull Mountain area, felt the City's action on this issue was just a smokescreen to try to convince voters, and there would never be any SDC's used to buy park land in the Bull Mountain area. She did not feel there would be anything accomplished.

Mayor Dirksen pointed out the City and County was totally different regarding Park SDC. If the area were annexed, the County could collect the Park SDC's, and could decide to spend fees on park area in the Bull Mountain area through the effective date of the annexation. Once the area is annexed to the City, it then comes under the City's jurisdiction and the City would collect Park SDC's from developers, and the City has decided that any fees collected in the annexed area would be spent on parks in the affected area.

Ms. Shumway noted the developer who challenged Washington County's Park SDC's, also builds within the City of Tigard and asked if the City's Park SDC's had been challenged.

Mr. Monahan noted Washington County's proposed Park SDC was tied to their comprehensive plan. Tigard's Park SDC is a separately established ordinance and is not tied to the City's comprehensive plan. The developer who was challenging Washington County's proposed Park SDC has built homes in Tigard and has paid the Park SDC's.

Ms. Shumway noted the title of the resolution indicates that the City will collect Park SDC's in the Bull Mountain, and asked if Park SDC's would be collected in the rest of the City.

Mayor Dirksen replied that Park SDC's are collected city-wide, but this resolution noted any Park SDC's collected from development in the Bull

Mountain area would be used for parks in the area. The Council also recognizes the amount of Park SDC's collected from the Bull Mountain area would not be sufficient to purchase park land. When Council passed this resolution, Council discussion noted it was committed to utilizing other City funds that would be added to the Park SDC's collected from the Bull Mountain area in order to purchase land for parks.

Ms. Shumway noted residents in the Bull Mountain area recently received notification from Metro that it was looking at a path to Beef Bend Road. She asked if the City Would be part of that. Mayor Dirksen replied the City would be involved with Metro.

Councilor Woodruff explained that by Ms. Shumway's checking with the County about their Park SDC's, it reinforces what the Council has been saying that the City has the ability to collect and use Park SDC's if the area is annexed. He noted the City was considering increasing the Park SDC's across the board, throughout the City. If the area were annexed, the increased Park SDC's would apply also to development on Bull Mountain.

Mr. Henschel noted in the body of that resolution, it states that land and open space acquisition would be on or near Bull Mountain. He feels this statement is deceptive, and asked again, what is "on," "near" or "what is the definition of Bull Mountain area."

Councilor Wilson replied Council has noted Bull Mountain is not a legal entity but has noted that Council was referring to the boundaries of the area proposed for annexation. Council also recognizes that it may not be possible to find park sites within those boundaries, so was not limiting the area just to the annexed area for parks. That is why Council stated "the Bull Mountain area" in the resolution.

Mr. Henschel stated he did not feel the resolutions made that clear.

- Pete Shumway, 14535 SW Woodhue Street, unincorporated Bull Mountain, stated he was concerned about Resolution 04-75, regarding "an aggressive search of the Bull Mountain area for park land." He questioned whether there have been any contacts with property owners to purchase property, as well as if the City has enough money to purchase the property. Over 700 acres on Bull Mountain has already been annexed, and Park SDC's should have been collected on those homes. He did not see any sidewalks or street lights in that area. The only thing he has seen are new signs "Entering Tigard." In order for him to be able to support the annexation proposal, he would need to see something more tangible, like a plan showing what funds might be allocated for



parks, where the additional funds will come from, and potential park sites were located. He noted the Parks White Papers noted many sites that might have been a potential park site has been developed.

Mayor Dirksen replied there is a limited amount of work the City can do while the issue is up in the air. Before the area comes into the City, there is no reason to do much planning. The City has purchased an area known as Cache Creek in the area of Bull Mountain that is already annexed. There may be some additional properties in that area that could be acquired. As far as identifying specific pieces of property in the unincorporated area of Bull Mountain, they would need to wait until after the area is annexed before contacting specific property owners to see if they would be interested in selling their property for park purposes. If the issue is approved by voters, the City wants to immediately begin contacting willing sellers. He would have liked prior councils to have acquired property outside the City limits, but they did not feel they could acquire property outside the City limits. He noted the areas on Bull Mountain that has already been annexed could only be annexed if the property was contiguous to the City boundaries and was in the process of being developed. By the time those areas were annexed, the land was already being developed and there was no opportunity to preserve any land for open space. This was one reason the Council decided to proceed with this single annexation of the whole area, so that open space could be identified and purchased in order to be preserved from being developed. Mr. Shumway correctly noted that suitable open space is disappearing and as time passes, the opportunity will have been lost.

Councilor Sherwood concurred that the policy of prior Councils was not to purchase property until the area was inside the city. The few times the Council did purchase property outside the City Limits, citizens made it clear they were upset that the City was purchasing property outside the City. Therefore, prior Councils have made it a policy not to purchase property outside the city limits.

> OTHER ITEMS

Mayor Dirksen announced that Council has discussed an opportunity that Council is going to make itself available to meet with citizens when there is a fifth Tuesday in a month, which is about four times a year. On those fifth Tuesdays, the City Council, or at least several members of the City Council, will be available to meet with citizens in an informal discussion, with no agenda, and someone, perhaps a citizen facilitator, to take notes. Citizens could ask questions, Councilors can ask citizens questions, in order to have discussion on

topics. The first Citizen Forum will be November 30, from 7 to 9 p.m. in the Water Building on Burnham Street.

### 3. CONSENT AGENDA

Rob Williams, Youth Advisory Council President, read the Consent Agenda items.

Motion by Councilor Sherwood, seconded by Councilor Wilson, to adopt the Consent Agenda as follows:

- 3.1 Approve Council Minutes for September 21, September 28, and October 12, 2004
- 3.2 Receive and File:
  - a. Council Goal Update – Quarter 3
- 3.3 RESOLUTION 04-80 – A RESOLUTION APPROVING BUDGET AMENDMENT #6 TO THE FY 2004-05 BUDGET TO INCREASE APPROPRIATIONS IN THE FACILITY FUND FOR REMODEL EXPENSES OF THE PERMIT CENTER/CITY HALL PROJECT.
- 3.4 RESOLUTION 04-81 – A RESOLUTION AMENDING THE PERSONNEL PLICIES FOR MANAGEMENT/SUPERVISORY AND CONFIDENTIAL EMPLOYIYES
- 3.5 RESOLUTION 04-82 – A RESOLUTION APPROVING A LIST OF PROJECTS FOR CONSIDERATION IN WASHINGTON COUNTY'S MSTIP (MAJOR STREETS TRANSPORTATION IMPROVEMENT PROGRAM) TRANSPORTATION CAPITAL PROGRAM FOR THE SIX-YEAR PERIOD 2007 THROUGH 2012.
- 3.6 RESOLUTION 04-83 – A RESOLUTION REVISING THE POLICY OF THE CITY COUNCIL REGARDING COUNCIL GROUNDRULES AND VISITOR'S AGENDA PROCESS (SUPERCEDING RESOLUTION NO. 01-47)

The motion was approved by a unanimous vote:

Mayor Dirksen	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes

Councilor Woodruff encouraged citizens to look at the Council packet on the City's website, particularly the Council Goal update. A lot of times, citizens ask what specific things the Council and City has accomplished. This lays out

each quarter the things that are occurring in the goals that were set in January. This is a good way to see what is happening.

4. MOBILE DATA COMPUTER (MDC'S) GRANT & BUDGET AMENDMENT #3:  
Resolution No. 04-84

a. Staff Report

Chief Bill Dickinson presented the staff report, and explained that a grant was submitted to the State of Oregon – 2004 State Homeland Security Program to fund the purchase of equipment needed by the Police Department to improve and protect communications. There are federal requirements that as of September 1, 2005, all transmissions have encryption capabilities. The City received \$164,958 from the grant and the budget modification allocates those funds as well as transfers funds in the amount of \$250,000 from the General Fund Contingency to allow the purchase of all the needed mobile data computers and digital video systems for installation in City police vehicles.

b. Council Discussion

Upon motion of Councilor Woodruff, seconded by Councilor Sherwood, to approve RESOLUTION 04-84 – A RESOLUTION TO ACCEPT A LAW ENFORCEMENT TERRORISM PREVENTION GRANT AND APPROVE BUDGET AMENDMENT #3 TO APPROPRIATE GRANT FUNDS AND TRANSFER CONTINGENCY TO ALLOW THE PURCHASE OF POLICE RADIOS, MOBILE DATA COMPUTERS, AND A DIGITAL VIDEO SYSTEM

The motion was approved by a unanimous vote:

Mayor Dirksen	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes

5. PREVIEW OF THE NEW PERMIT CENTER

a. Staff Report

Gus Duenas, City Engineer, noted the Council had toured the Permit Center at its last meeting. He then presented a PowerPoint Presentation, showing what

the intent has been to consolidate staff in the new Permit Center which formerly housed the Library. The departments to be housed there include the Community Development which includes Planning and Building, Engineering, Human Resources and Risk Management. Slides were shown of the existing conditions in both City Hall as well as the modular buildings where a portion of Engineering and the Building Inspectors are located. This move will consolidate staff from a number of locations to one location and will make communication among staff more efficient. The reconstructed area will include an additional conference room accessible to the public for evening and weekend use, as well as additional small conference rooms for use by staff.

Jim Hendryx, Community Development Director, also presented some of the PowerPoint Presentation. (Agenda Item No. 5, Exhibit 1 for copy of the PowerPoint Presentation). He noted the move is scheduled for mid November and staff as it is packing material will divest itself of junk and outdated files and material.

6. RESOLUTION TO EXPAND THE MISSION OF AND ADD NEW MEMBERS TO THE TRANSPORTATION FINANCING STRATEGIES TASK FORCE

a. Staff Report

Mr. Duenas explained that one of the things he has been trying to do with the Transportation Financing Strategies Task Force is to add new members. There is a need for a representative from the business community as well as more members in order to have a quorum whenever the committee meets. There has been a problem with the limited membership in getting a quorum. The resolution adds two members: Ralph Hughes from the Chamber of Commerce, and Marty Anderson, Planning Commission Representative. The resolution also changes the quorum from five to six. In addition, the Task Force discussed the question about the right-of-way maintenance of those areas located between the sidewalk and the right-of-way. It was noted the original resolution did not address that concern as part of the Task Force Mission. Council has also brought up questions about sidewalk improvements, which has been a high priority, which is also addressed in the mission statement. Staff recommends Council approve the resolution by amending the mission statement, changing the quorum and adding the additional members.

Mayor Dirksen said he and Councilor Moore sat on the original Task Force, and Councilor Wilson is now representing the Council on the reconstituted Task Force.

Councilor Wilson stated he did attend the first Task Force Meeting last week, and was impressed by the quality of the people who are on the committee. One concern he had was the Committee was looking for means when the end result was not really focused. He felt the Council, at its goal setting sessions in January, needs to really target in on those projects which have the highest priority. The usual funding sources have been identified as well as the laundry list of projects. Some of those projects have money targeted to them. If we are going to look for new sources, then it is important to focus the group by connecting that effort to specific projects.

Mayor Dirksen asked if during the Council Goal Setting, one of the things that would be needed is to try to integrate the task force and the project list to come up with specific goals that they will need to find funds for.

Councilor Wilson said that would make the work of the Task Force more meaningful. Any time there is a group looking at fund raising, they need to be fund raise for specific purposes.

Mr. Duenas said one of the things he told the Task Force already, is the Council had indicated it wanted to meet with the Task Force. The appropriate time would be after the goal setting. They are looking at either February or March for the Task Force to be scheduled at a work session.

Councilor Woodruff said it is always good to meet with the task forces, in order to brainstorm and solve problems. He would hope that as they look for resources, they look for resources outside additional taxes that citizens have to pay. There is the street maintenance fee, but there are concerns about that. He would hope the Task Force is sensitive to that and look at other sources of revenue before they look at it.

Mr. Duenas said that was one of the directions staff gave to the Task Force.

Mayor Dirksen said the Council recognized that and has started having regular dialogues with the Oregon Department of Transportation (ODOT). That meeting is scheduled for November 9. It would be a good idea if the Task Force members be invited to attend that meeting.

Mr. Duenas stated he would invite the Task Force Members to attend that Council Meeting.

Upon motion of Councilor Wilson, seconded by Councilor Woodruff, to approve RESOLUTION 04-85 – A RESOLUTION AMENDING

RESOLUTION 04-52, WHICH RECONSTITUTED THE  
TRANSPORTATION FINANCING STRATEGIES TASK FORCE.

Mayor Dirksen	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes

7. COUNCIL LIAISON REPORTS - None

8. NON AGENDA ITEMS - None

9. ADJOURNMENT

Upon motion of Councilor Sherwood, seconded by Councilor Woodruff, unanimously passed, the motion was adjourned at 8:27 p.m.

  
Jane McGarvin, Deputy City Recorder

Attest:

\_\_\_\_\_  
Mayor, City of Tigard

Date: \_\_\_\_\_

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE: Amendment to the Engineering Design Services Contract on the Hall Boulevard/Wall Street Intersection project

PREPARED BY: Vannie Nguyen DEPT HEAD OK : Agustin. P. Duenas CITY MGR OK: Bill Monahan

ISSUE BEFORE THE COUNCIL

The proposed contract amendment for additional services on the Hall Boulevard/Wall Street Intersection project exceeds 20 percent of the contract amount. This agenda item requests the Council, acting as the Local Contract Review Board, to approve the contract amendment to date on this project.

STAFF RECOMMENDATION

Staff recommends that City Council approve the amendment to the contract with **DeHaas & Associates** in the amount of **\$81,929** for additional engineering design and construction services on the Hall Boulevard/Wall Street Intersection project.

Staff also recommends that Council authorize any additional amendments which may become necessary as the project progresses, up to 20 percent of the amended contract amount, without further action by Council.

INFORMATION SUMMARY

The proposed Wall Street project includes design and construction of the street from Hall Boulevard to Hunziker Street and Hall Boulevard approaches at its intersection with the proposed Wall Street. In July 2002, the design team led by DeHaas & Associates was selected to provide engineering design services through a formal Request for Proposal process. In April 2003, the City was required to provide half-street improvements along Hall Boulevard as a condition of approval for the Library project. The City was also required by ODOT to construct a joint access for the library and the Fanno Pointe Condominiums.

In the City Council meeting of May 13, 2003, Council approved a resolution amending the FY 2002-03 CIP Budget to separate the Hall Boulevard/Wall Street Intersection project from the Wall Street LID project. Separation of the two projects provided the City an opportunity to expedite the construction schedule for the Hall Boulevard half-street improvements required as a condition of approval for the Library project. The rest of Wall Street would be designed to the 60% stage to complete the Preliminary Engineer's Report. Any additional design after that would be dependent upon formation on the LID to construct the improvements. Limits of work for the two projects are defined as follows:

- **Hall Boulevard/Wall Street Intersection project:** Construction of half-street improvement on Hall Boulevard and the first 425 feet of Wall Street to provide a joint access for the library and the Fanno Pointe Condominiums.
- **Wall Street LID project:** Extension of the first 425 feet of Wall Street across Fanno Creek and existing railroad tracks to Hunziker Street.

On February 25, 2003, a contract in the amount of \$202,022 was issued to DeHaas & Associates to provide topographical survey, preliminary design and final design services for the Hall Boulevard/Wall Street Intersection project. On December 16, 2003, Council approved an amendment of \$177,410 (Amendment No. 1) for additional work in associated with wetland permit applications, alternative design analysis and Comprehensive Plan amendment for removal the existing two ponds for construction of Wall Street. Scope of services included in Amendment No. 1 also included the re-design of an existing culvert on Hall Boulevard to allow for fish passage into Fanno Creek and other miscellaneous designs for the Hall Boulevard drainage and retaining walls.

On April 4, 2004, the City approved a second contract amendment in the amount of \$13,810 for the design of Wall Street landscaping and Hall Boulevard bio-swale.

The total contract amount and amendments issued to date to DeHaas & Associates are as follows:

Original Contract	\$ 202,022.00
Amendment No. 1	\$ 177,410.00
Amendment No. 2	<u>\$13,810.00</u>
<b>Total Contract</b>	<b>\$ 393,242.00</b>

Because of the requirements involving acquisition of wetland permits for construction of the first 425 feet of Wall Street, the Hall Boulevard/Wall Street Intersection project was further sub-divided into two phases to ensure timely construction of the half-street improvement:

- **Hall Boulevard/Wall Street Improvements - Phase 1:** This project includes construction of half-street improvements on Hall Boulevard. Construction of this phase has been completed.
- **Hall Boulevard/Wall Street Improvements - Phase 2:** The project involves construction of the first 425 feet of Wall Street to provide a joint access for the two developments. Wetland permit, sensitive lands permit and comprehensive plan amendment permit are being obtained. The design of Phase 2 is substantially completed.

During the design of the project, staff had requested signalization of the Hall Boulevard/Wall Street intersection. However, because the warrant for the eight-hour and peak hour volumes was not met, ODOT did not approve the signal system request at that time. Due to the uncertainty of ODOT's approval, the original contract with DeHaas & Associates did not include engineering costs for the signal. However, ODOT has recently reconsidered the request and has allowed the City to install a signal at the new library entrance.

Staff proposes that the current contract with DeHaas & Associates be amended in the amount of \$25,000 for the design of the new signal. The signal would be designed and installed as soon as possible. Because the construction of the first 425 feet of Wall Street is linked with the realignment of Pinebrook Creek, the construction work for the street must be performed in conjunction with the creek realignment. The project would be advertised for bids in the spring. However, the work in the creek would have to be performed during the period of time between July 1, 2005 and September 30, 2005. Construction of the new signal is anticipated to begin in early spring of 2005. The signal system would be designed such that it could be transitioned to the segment of Wall Street (first 425 feet) that would provide joint access to the Library and Fanno Pointe.

Staff also proposes that the contract be amended in an additional amount of \$56,929 for construction staking, construction inspection oversight for the new signal, wetland planting, and wetland report as required by permit conditions of approval.



Upon Council's approval of Amendment No. 3 on November 23, 2004, the total contract amount would be:

Original Contract	\$ 202,022.00
Amendment No. 1	\$ 177,410.00
Amendment No. 2	\$13,810.00
Amendment No. 3 (proposed)	<u>\$81,929.00</u>
<b>Total Contract</b>	<b>\$ 475,171.00</b>

There may be additional contract amendments necessary as the project proceeds towards completion with potential construction change orders likely to occur during construction. Staff recommends that Council authorize any additional amendments which may become necessary as the project progresses, up to 20 percent of the amended contract amount, without further action by Council.

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#### OTHER ALTERNATIVES CONSIDERED

Council does not approve the contract amendment. Although the original Request for Proposal included a comprehensive scope of work for the entire project through construction, Council could elect to require a new RFP for the additional work. A Request for Proposal would need to be prepared for design, construction staking and construction oversight services, which could be time consuming and could be more costly since a new consultant would need to become familiarized with the project at additional cost.

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#### VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Completion of the Hall Boulevard/Wall Street Intersection project that expands the capacity of Hall Boulevard and prohibits direct access onto Hall Boulevard, an arterial street, meets the Tigard Beyond Tomorrow Transportation and Traffic Goal of "Improve Traffic Flow and Safety."

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#### ATTACHMENT LIST

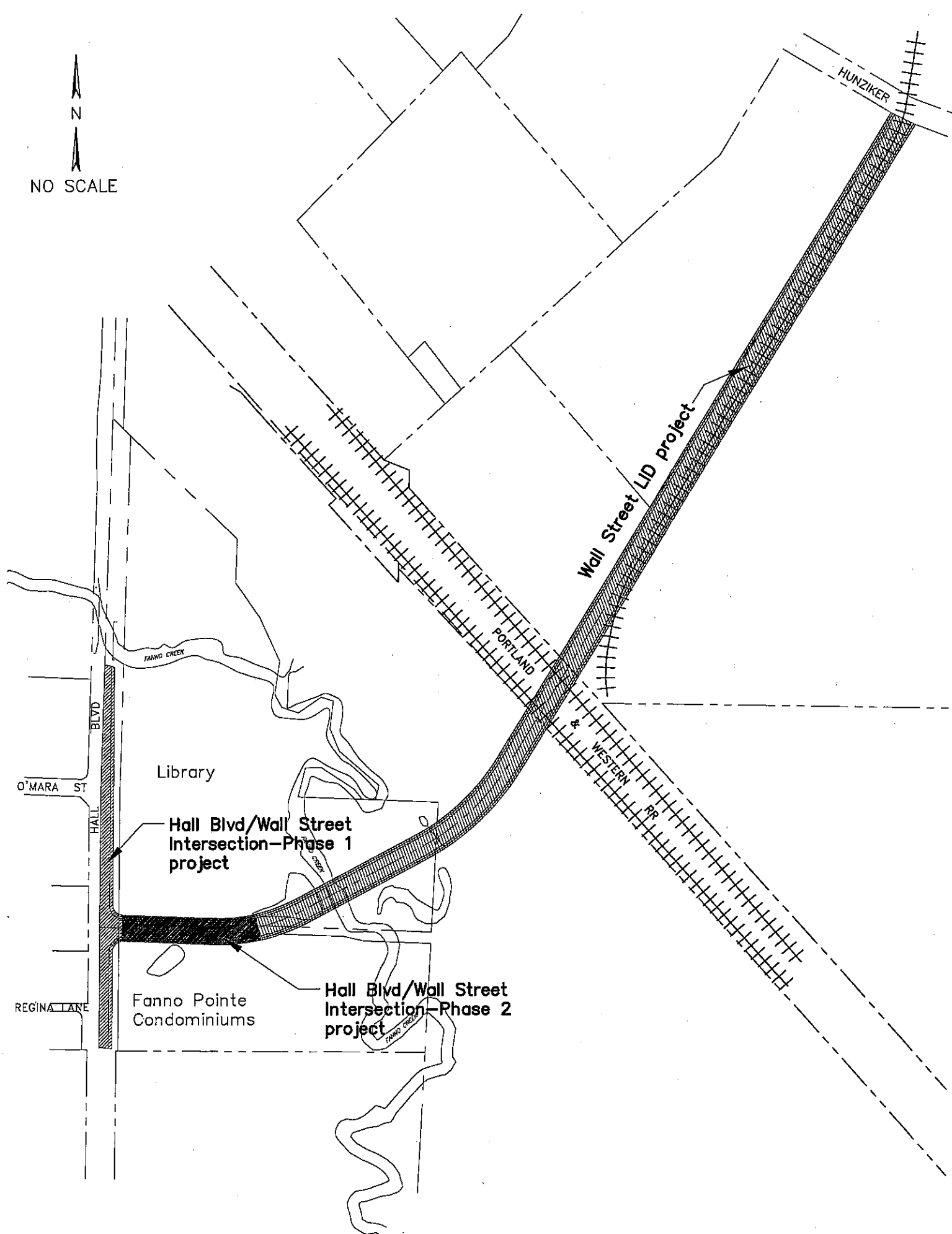
Map showing the project limits for the Wall Street LID project and the Phase 1 and Phase 2 Hall Boulevard/Wall Street Intersection projects.

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#### FISCAL NOTES

The project was approved in the FY 2004-05 Capital Improvement Program using Traffic Impact Fee funding of \$400,000.00. The remaining budget of approximately \$386,000 is sufficient to approve the proposed contract amendment of \$81,929.

N  
NO SCALE



CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE: Approve the purchase of three Hybrid Vehicles for Building Division use.

PREPARED BY: Dennis Koellermeier x2596 DEPT HEAD OK: DK CITY MGR OK: EdM for WPM

ISSUE BEFORE THE COUNCIL

Shall the Local Contract Review Board approve the purchase of three hybrid Ford Escape Sport Utility Vehicles (SUVs) for use by the City's Building Division?

STAFF RECOMMENDATION

Staff recommends that the Local Contract Review Board approve the purchase of three hybrid Ford Escape SUVs utilizing an existing State of Oregon Contract.

INFORMATION SUMMARY

The Building Division currently has the need to replace three vehicles assigned to Inspectors. Earlier this year, staff stated that Fleet Maintenance would continue to track development of hybrid vehicles as possible replacements for the City's aging vehicles. With the release of the hybrid Ford Escape SUV, there is now a hybrid vehicle that meets the needs of the City's Building Division. Given the vehicle specifications required by the Building Division, including the ability to traverse rough ground, including curbs, rocks, and lumber pieces, high clearance, heavy upholstery, rubber floors, and room to carry tools, along with the higher fuel efficiency and lower environmental impact, staff has determined the hybrid Escape is an excellent fit for the Building Division.

Staff has further determined that the best means to procure these hybrid vehicles would be through the utilization of State of Oregon contract #4184, which the City is eligible to use through its membership in the Oregon Cooperative Purchasing Program. Utilizing this contract will save the City staff time and cost in preparing a solicitation for the vehicles. The existing three vehicles being replaced (1993 and two 1995 pick-up) will be circulated into the City fleet in back-up assignments to maximize the use of our investments.

OTHER ALTERNATIVES CONSIDERED

1. Direct staff to prepare and advertise an Invitation to Bid solicitation for the purchase of the replacement vehicles.
2. Do not replace vehicles at this time.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

None.

ATTACHMENT LIST

1. State of Oregon contract #4184.

FISCAL NOTES

The cost of each Escape is \$25,008 for a total of \$75,024. Currently the City has \$76,000 budgeted for vehicle replacements within the Building Division's budget. Funds for this division are dedicated revenues generated by building permit fees and restricted in use to Building Division operating costs.

STATE OF OREGON  
DEPARTMENT OF ADMINISTRATIVE SERVICES  
PURCHASING DIVISION

PRICE AGREEMENT SUMMARY PAGE: 1  
COMMODITY CODE: 99894 PA NUMBER: 4184  
BUYER NAME: W. JACOBS (503) 378-4646

ITEM: HYBRID FORD ESCAPE, SUV, 2 WHEEL DRIVE,  
PRICE AGREEMENT IS FOR THE 2005 MODEL YEAR WITH AN  
OPTION TO RENEW FOR ADDITIONAL TERMS

AGENCY: STATE AGENCIES AND AUTHORIZED ORCPP MEMBERS

CONTRACTOR: LANDMARK FORD  
12000 SW 66TH AVENUE  
TIGARD OR 97281 3970

PH#: (503) 639-1131 FAX: 503 59883840000 CONTACT: DAVE FREZZA

BRAND/TRADE NAME: HYBRID COMPACT SUV, FORD ESCAPE, 4X2

PRICE: \$24,943.00

TERMS: NET 30  
FOB: FOB DESTINATION

CONTRACT PERIOD: SEP 29 2004 THROUGH SEP 28 2005

DAYS REQUIRED FOR DELIVERY: 180 DAYS AFTER RECEIPT OF PURCHASE ORDER  
MINIMUM ORDER: ONE UNIT

TRANSPORTATION CHARGES: SEE D.2

OTHER CONDITIONS: BEFORE ISSUING A PURCHASE ORDER AGAINST  
THIS PRICE AGREEMENT CALL THE CONTRACTOR  
TO VERIFY OPTION PRICING. OPTION PRICES  
IN THIS SUMMARY MAY NOT BE ACCURATE

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PURSUANT TO OAR 125-050-0040, AUTHORIZED PURCHASERS TO THIS  
CONTRACT/PRICE AGREEMENT SHOULD CONTACT THE DAS SURPLUS PROPERTY  
PROGRAM AT 503.378.4714 TO CONFIRM AVAILABILITY OF VEHICLES AT A  
DISCOUNTED PRICE PRIOR TO PURCHASING FROM THIS PRICE AGREEMENT.

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THIS CONTRACT COVERS ONLY THOSE ITEMS LISTED.

DATE OF ISSUANCE: 09/22/2004  
BID NO.: 10200045 04

STATE OF OREGON  
DEPARTMENT OF ADMINISTRATIVE SERVICES  
PURCHASING DIVISION  
PRICE AGREEMENT SUMMARY

PAGE: 2

COMMODITY CODE: 99894

PA NUMBER: 4184

ITEM - 00001 UNIT - EA COMMODITY - 99894 PRICE - \$24,943.0000  
Year: 2005 Make: Ford Utility Vehicles

Model: Escape Style: U95 4dr 103" WB 2.3L Hybrid

## \*\*\*\*\* STANDARD EQUIPMENT

\*\*\*\*\*

\*\*ASTERISK (\*) INDICATES EQUIPMENT WHICH IS IN ADDITION TO OR REPLACES  
BASE MODELS STANDARD EQUIPMENT\*\*

## &lt;&lt;&lt; MECHANICAL &gt;&gt;&gt;

- \* 2.3L 4V I4 Atkinson Cycle engine
- \* Permanent Magnet electric motor
- \* 330V sealed nickel-metal hydride (Ni-MH) battery
- Engine block heater \*Standard on non-fleet vehicles in AK, MN, ND, SD,  
MT, WI & WY\*
- \* Electronically controlled continuously variable transmission (ECVT)
- Front wheel drive
- 4-wheel independent suspension
- \* (4) P235/70R16 BSW all-season tires
- \* (4) 16" Hybrid-unique aluminum wheels
- Underbody-mounted compact spare tire
- \* Electric power assisted steering (EPAS)
- \* Power front/rear disc brakes
- 4-wheel anti-lock braking system
- \* Quick brake assist
- \* Regenerative braking system
- 15.0 gallon fuel tank

## &lt;&lt;&lt; EXTERIOR &gt;&gt;&gt;

- \* Roof rack w/cross bars
- Grey bumpers
- Grey body cladding/rocker moldings
- Black liftgate molding
- Black grille w/black mesh center
- Black full grip ergonomic door handles
- Clear lens halogen headlamps w/delay
- \* Round front fog lamps
- Black fold-away power side mirrors
- Dot matrix windshield pattern
- Solar-tinted glass on doors & liftgate
- \* Privacy glass on rear doors/quarter windows/liftgate
- Variable intermittent windshield wipers
- Rear 2-speed wiper w/washer

STATE OF OREGON  
DEPARTMENT OF ADMINISTRATIVE SERVICES  
PURCHASING DIVISION  
PRICE AGREEMENT SUMMARY

PAGE: 3

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## &lt;&lt;&lt; INTERIOR &gt;&gt;&gt;

- \* Premium cloth front low-back bucket seats-inc: adjustable head restraints, dual map pockets
- \* 6-way power driver seat w/height adjuster
- \* Premium cloth 60/40 split tip-fold-flat rear bench seat w/removable cushion, head restraints
- Floor console-inc: (2) cup holders, storage bin
- \* Front color-keyed carpeted floor mats
- \* Tilt steering wheel w/speed control
- \* White-faced instrument panel-inc: warning lights & Hybrid-unique gauges
- \* Warm steel-painted center cluster & front door switch bezel trim
- Power windows w/driver "one-touch-down" & accessory power delay
- Power locks
- Remote keyless entry w/(2) transmitters
- \* Perimeter alarm
- \* Message center
- Air conditioning
- Rear floor heat ducts
- Rear window defroster
- \* ETR AM/FM stereo w/6-disc in-dash CD changer-inc: (4) speakers
- Locking glove box
- Power point w/cap in floor console
- Cloth visors w/covered vanity mirrors
- Front/rear assist handles-inc: rear coat hooks
- Interior lighting w/delay-inc: map lights, rear cargo light

## &lt;&lt;&lt; SAFETY &gt;&gt;&gt;

- Dual stage driver & front passenger airbags w/passenger side Occupant Classification Sensor
- 4-wheel anti-lock braking system
- \* Quick brake assist
- Front height-adjustable 3-point safety belts w/pretensioners
- Rear 3-point safety belts
- Rear outboard LATCH child seat anchors & tethers
- Belt Minder feature
- Child safety rear door locks
- Side intrusion door beams

CONTINUED NEXT PAGE

STATE OF OREGON  
DEPARTMENT OF ADMINISTRATIVE SERVICES  
PURCHASING DIVISION  
PRICE AGREEMENT SUMMARY

PAGE: 4

COMMODITY CODE: 99884

PA NUMBER: 4184

## \*\*\*\*\* FACTORY OPTIONS \*\*\*\*\*

OPTION CODES	DESCRIPTION	Invoice
U95	4dr 103" WB 2.3L Hybrid	24943.00
<<< EMISSIONS >>>		
—	STANDARD EMISSIONS	0.00
422	CALIFORNIA EMISSIONS *Required on units for CA, CT, ME, MA, NJ, NY, RI or VT registration. Optional for Cross-Border States*	0.00
423	CALIFORNIA EMISSIONS NOT REQUIRED *For units shipped or sold to California Emission States dealers for registration out of state* (REQ: Standard Emissions)	0.00
936	CALIFORNIA EMISSIONS STATES PUBLIC SERVICE/ EMERGENCY VEHICLE EXEMPTION *Only available on units sold to authorized government units & privately-owned ambulance companies* (REQ: 423 Emissions)	0.00
93N	NON-CALIFORNIA EMISSIONS/NON-CROSS-BORDER STATES DEALER ORDER FOR CALIFORNIA EMISSIONS STATES REGISTRATION *Required on all units ordered by dealers for California Emissions States registration when vehicle is being delivered to a non-California Emissions/non-Cross-Border States location. Vehicles must be registered in California Emissions States* (REQ: 422 Emissions)	0.00

## &lt;&lt;&lt; ENGINE &gt;&gt;&gt;

99H	2.3L 4V I4 ATKINSON CYCLE ENGINE (STD)	0.00
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## &lt;&lt;&lt; TRANSMISSION &gt;&gt;&gt;

44H	ELECTRONICALLY CONTROLLED CONTINUOUSLY VARIABLE TRANSMISSION (STD)	0.00
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STATE OF OREGON  
DEPARTMENT OF ADMINISTRATIVE SERVICES  
PURCHASING DIVISION  
PRICE AGREEMENT SUMMARY

PAGE: 5

COMMODITY CODE: 99894

PA NUMBER: 4184

## &lt;&lt;&lt; SERIES ORDER CODE &gt;&gt;&gt;

300A HYBRID SERIES ORDER CODE 0.00

## &lt;&lt;&lt; TIRES &gt;&gt;&gt;

T53 P235/70R16 BSW ALL-SEASON TIRES (STD) 0.00

## &lt;&lt;&lt; SEAT TYPE &gt;&gt;&gt;

A\_ PREMIUM CLOTH LOW-BACK BUCKET SEATS (STD) 0.00

## &lt;&lt;&lt; PAINT &gt;&gt;&gt;

\_\_\_ SOLID PAINT (STD) 0.00

## &lt;&lt;&lt; ADDITIONAL OPTIONS &gt;&gt;&gt;

47C APPEARANCE PKG-inc: A-gloss Silver Metallic  
fascias, bodyside claddings & wheel lip  
moldings, & A-gloss body color door handles &  
liftgate garnish 563.0085S SAFETY PKG-inc: side air curtains w/rollover  
sensor, front side air bags \*Deletes STD 2nd  
row assist handles\* 536.00588 MACH AUDIO "CDX6" SYSTEM-inc: ETR AM/FM  
stereo w/6-disc in-dash CD changer, (7)  
speakers 509.00

655 CARGO AREA RETRACTABLE COVER 67.00

161 FLOOR MATS, REAR 23.00

21E AC 110V POWER OUTLET, FRONT CONSOLE 99.00

153 LICENSE PLATE BRACKET 0.00

## \*\*\*\*\* WARRANTY \*\*\*\*\*

## &lt;&lt;&lt; PRELIMINARY 2005 WARRANTY &gt;&gt;&gt;

Basic: 3 Years/36,000 Miles

Drivetrain: 3 Years/36,000 Miles

Corrosion: 5 Years/Unlimited Miles

Roadside Assistance: 3 Years/36,000 Miles



STATE OF OREGON  
DEPARTMENT OF ADMINISTRATIVE SERVICES  
PURCHASING DIVISION  
PRICE AGREEMENT SUMMARY

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COMMODITY CODE: 99894

PA NUMBER: 4184

## Color Chart

2005 Ford Escape 4dr 103" WB 2.3L Hybrid

EXTERIOR COLORS ----- INTERIOR COLORS -----

MdDk

Flnt

Dark Shadow Grey Met	X
Titanium Green Met	X
Red Fire Metallic	X
Sonic Blue Metallic	X
Silver Metallic	X
Oxford White	X

## Color Chart Legend

Abbreviation ----- Full Name ----- Code -----

## INTERIOR COLORS

MdDk Flnt Medium/Dk Flint 2

## EXTERIOR COLORS

Dark Shadow Grey Met	Dark Shadow Grey Metallic	CX
Titanium Green Met	Titanium Green Metallic	DV
Red Fire Metallic	Red Fire Metallic	G2
Sonic Blue Metallic	Sonic Blue Metallic	SN
Silver Metallic	Silver Metallic	YN
Oxford White	Oxford White	YZ

STATE OF OREGON  
DEPARTMENT OF ADMINISTRATIVE SERVICES  
PURCHASING DIVISION  
PRICE AGREEMENT SUMMARY

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This price agreement summary is for informational purposes only. In the event that any part of this summary conflicts with any of the terms and conditions of the contract resulting from Invitation to Bid # 10200045-04, the terms and conditions of said contract shall govern. All terms and conditions and specification requirements as stated in Invitation to Bid # 10200045-04 apply, even though they may not be stated in this price agreement summary.

This is a requirements contract, and the state agency or agencies listed are required to purchase from the contractor when purchasing items listed in the price schedule and covers only those items listed.

Contractor Performance: If products or services purchased under this price agreement are unsatisfactory agency personnel need to notify the buyer listed on page 1 of the contract summary by filling out a Purchasing Performance Report form. This form is available on line at the following address: <http://tpps.das.state.or.us/purchasing/link>.

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#### SECTION B - ORDER OF INFORMATION

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SECTION C - GENERAL BIDDING INFORMATION  
SECTION D - SPECIFICATIONS  
SECTION E - ORCPP PARTICIPATION  
SECTION F - PRICE AGREEMENT TERMS AND CONDITIONS  
SECTION G - STANDARD CONTRACT TERMS AND CONDITIONS  
SECTION H - SPECIAL CONTRACT TERMS AND CONDITIONS

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#### SECTION C - GENERAL BIDDING INFORMATION

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##### C.1 GENERAL DEFINITIONS:

C.1.1 "Addendum" or "Addenda" means an addition or deletion to, a material change in, or clarification of, the ITB. Addenda shall be labeled as such and shall be made available to all interested Bidders in accordance with the Oregon Administrative Rule (OAR) 125-030-0007(4).

C.1.2 "Authorized Purchaser" means the State of Oregon, acting by and through DAS and Purchasing Agencies submitting Purchase Orders pursuant to DAS purchasing authority and direction. It may also include ORCPP Participants with appropriate purchasing authority under their applicable rules or regulations who submit Purchase Orders to Contractor.

STATE OF OREGON  
DEPARTMENT OF ADMINISTRATIVE SERVICES  
PURCHASING DIVISION  
PRICE AGREEMENT SUMMARY PAGE: 8

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C.1.3 "Bid" means the Bidder's written offer submitted in response to an ITB, including all necessary attachments. (Refer to Section C.4.1.)

C.1.4 "Bid Closing" means the date and time set in the ITB for Bid submission, after which Bids may not be submitted, modified, or withdrawn by Bidder.

C.1.5 "Bid Item" means the individual items one (1) and two (2) identified in the Pricing Submittal Section.

C.1.6 "Bid Opening" means the same date and time set for Bid Closing, unless otherwise specified in Section C.10.

C.1.7 "Bidder" means the person or other legal entity that submits a Bid in response to an ITB.

C.1.8 Not used in this ITB

C.1.9 "Contract" means the entire agreement between the Contractor and the Authorized Purchaser, comprised of the Price Agreement and a signed Purchase Order.

C.1.10 "Contractor" means the person or other legal entity with whom the State enters into a Price Agreement setting prices for the purchase of Goods and/or Services pursuant to the ITB, and with whom Authorized Purchasers subsequently contract through submittal of Purchase Orders.

C.1.11 "DAS" means the State Department of Administrative Services, acting through the State Procurement Office of the Procurement, Fleet and Surplus Services Division.

C.1.12 Not used in this ITB

C.1.13 "Good" means the individual Bid item, including all installed components and accessories, if any, described in the ITB, as well as manufacturer options available to the general public.

C.1.14 "GVW" means Gross Vehicle Weight.

C.1.15 "Invitation to Bid" or "ITB" means the entire solicitation document, including all parts, sections, exhibits, attachments, and Addenda.

C.1.16 "MPG" means miles per gallon.

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C.1.17 NOT USED THIS ITB

C.1.18. "ORCPP" means the Oregon Cooperative Purchasing Program, whose Participants include but are not limited to: cities, counties, school districts, special districts, Qualified Rehabilitation Facilities (QRFs), residential programs under contract with the Oregon Department of Human Services, United States governmental agencies, and American Indian tribes or agencies.

C.1.18.a. "ORCPP" also includes quasi-State Agencies such as Oregon Department of Higher Education, Oregon Health Sciences University, and Oregon State Lottery with statutory authority or autonomy to solicit for Goods/services independently.

C.1.19 "Participants" means members of ORCPP.

C.1.20 "Price Agreement" means the Invitation to Bid and the successful Bidder's Bid. It is the agreement between the Contractor and the State under which the Contractor agrees to hold prices, terms and conditions firm for a specified period of time for the benefit of Authorized Purchasers.

C.1.21 "Purchase Order" means the purchase order document submitted to Contractor by Authorized Purchasers for the purchase of Goods and/or Services under the Price Agreement.

C.1.22 "Purchasing Agency" means a State Agency subject to DAS purchasing authority under ORS 279.712.

C.1.23 "Specifications" means the specific attributes of the Goods to be purchased or Services to be provided, if any.

C.1.24 "Services" means the services to be performed under the Contract incidental to the purchase of Goods.

C.1.25 "Standard" means everything that the manufacturer of a Unit offers to the general public (consumer goods) during the applicable model year as standard equipment on the particular model.

C.1.26 "State" means the State of Oregon.

C.1.27 "State Agency" means every board, commission, department, or agency of the State of Oregon, whose costs are paid, in whole or in part, from funds held in the State Treasury.

C.1.28 "UCC" means the Uniform Commercial Code, ORS chapters 71, 72, and 72A, as applicable and as amended from time to time.

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C.1.29 "Unit" and "Good" may on occasion be used interchangeably; in such cases "Unit" shall mean "Good," as defined in this Section.

**C.2 GENERAL INFORMATION:**

C.2.1 BID SUBMITTAL ADDRESS AND BID CLOSING: DAS will receive sealed Bids until 2:30 p.m. (Pacific time) on the Bid Closing date specified on page one (1) of the ITB, or as amended by Addenda, at the office of DAS State Procurement, at the receptionist's desk, on the north end of the second floor, in the General Services Bldg., at 1225 Ferry St. SE U140, Salem, Oregon 97301-4285.

C.2.2 SINGLE POINT OF CONTACT: There will be only one point of contact during the procurement process. This includes the bidding process; requests for brand approval, change, clarification, and protests; the award process; and/or any other questions that may arise. The contact point for this ITB is John Weber, who can be contacted at (503) 373-1197 or via fax (503) 373-1626.

**C.2.3 VIP SYSTEM:**

C.2.3(a) VIP VENDOR HANDBOOK: New Bidders are encouraged to request a copy of "VIP Vendor Handbook." This brochure is available free of charge from DAS State Procurement Office, 1225 Ferry St. SE U140, Salem, OR 97301-4285; telephone (503) 378-4642.

C.2.3(b) ITBs: ITBs, including all Addenda and most attachments, are posted on the vendor information program ("VIP System"). Bidders who do not have access to the VIP System may download copies at a Plan Center, or at DAS State Procurement, 1225 Ferry St. SE U140, Salem, Oregon 97301-4285. Bidders may also order hard copies from DAS State Procurement for a fee.

C.2.3(c) ATTACHMENTS: Some exhibits and attachments may not be available on the VIP System. These must be purchased separately from DAS State Procurement, where so specified in the ITB. See Section C.2.2 "SINGLE POINT OF CONTACT."

C.2.3(d) ADDENDA: Addenda can be downloaded from the Addenda Menu on the VIP System. Bidders should consult the VIP System regularly until Bid Closing to assure that they have not missed any Addenda announcements.

C.2.3(e) PLAN HOLDER'S LIST: IN ORDER TO APPEAR ON THE BID PLAN HOLDERS LIST, VENDORS MUST BE ENTERED ON THE VIP SYSTEM. Vendors can enter their vendor information via the internet at:  
<http://tpps.das.state.or.us/purchasing>

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VENDORS ARE RESPONSIBLE FOR ENSURING THAT THEIR VENDOR INFORMATION IS CURRENT AND CORRECT. DAS shall accept no responsibility for incorrect vendor information shown on the VIP System, or information missing from it.

C.2.4 BIDDERS NOTE: PRICING PAGES, SECTION D "SPECIFICATIONS AND PRICING", SECTION E "ORCPP PARTICIPATION", SECTION J "CONTRACTOR REFERENCES", AND SECTIONS I THROUGH VI CONTAIN INFORMATION REQUIRING RESPONSES OR ACKNOWLEDGEMENT FROM BIDDER.

C.2.5 TRADE SECRETS: Any information Bidder submits in response to the ITB that Bidder considers a trade secret under ORS 192.501(2) or confidential proprietary information, and that Bidder wishes to protect from public disclosure, must be clearly labeled with the following: "This information constitutes a trade secret under ORS 192.501(2) or confidential proprietary information, and is not to be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192." Bidders are cautioned that price information submitted in response to an ITB is generally not considered a trade secret under the Oregon Public Records Law. Further, information submitted by Bidder that is already in the public domain is not protected. The State shall not be liable for disclosure or release of any information when authorized or required by law or court order to do so. The State shall also be immune from liability for disclosure or release of information under the circumstances set out in ORS 646.473(3).

C.20 BID RESULTS: After awards are completed, Bidders may download a tabulation of Bid results from the VIP system. Alternatively, Bidders may submit a written request to DAS State Procurement for a copy of the tabulation. Each request must indicate the Bid number and must include a self-addressed envelope and a \$5.00 check payable to the Department of Administrative Services.

C.21 REVIEW OF AWARDED BID FILES: Awarded Bid files are public records and available for review at the DAS State Procurement office by appointment.

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SECTION D - SPECIFICATIONS AND PRICING

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D.1 GENERAL PROVISIONS:

D.1.1 SILENCE OF SPECIFICATIONS: The apparent silence of the specifications as to any detail, or the apparent omission of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail, and that only materials and workmanship of first quality are to be used.

However, if any omitted specification results in ambiguity as to material characteristics of the Bid Item, and inclusion is necessary to enable a reasonable Bidder in the particular industry to properly identify such characteristics, Bidder shall submit a formal request for change as set forth in Section C.5.4.

Failure to make such a request is at Bidder's risk, and the Bidder awarded a Price Agreement shall be required to provide Goods meeting the Authorized Purchaser's needs with regard to any omitted specification for which change should reasonably have been sought.

D.1.2 ADHERENCE TO THE SPECIFICATIONS: Deviations from any of the specifications requirements in the ITB may result in Bid rejection. Deviations discovered after purchase shall be corrected at no cost to Authorized Purchaser.

D.1.3 Not applicable in this ITB.

D.1.4 NEW AND UNUSED: All Goods shall be new, unused, produced from current Standard production components, and shall be delivered ready for use.

D.1.5 STANDARD CONSTRUCTION: Unless superceded by the ITB specifications, Goods shall include all components and accessories listed by the manufacturer as Standard on Standard vehicles. All vehicles shall be of identical body style, quality, appointments, and design as those offered during the course of the model year to the general public.

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D.1.6 STANDARD VEHICLE COMPONENTS: ALL items, such as ashtrays, lighters, dome lights, inside mirrors, headlights, rear windshield wipers, ABS, Air bags etc., considered Standard factory equipment for the base model by the manufacturer, or which are required under federal regulations, shall be included as part of the base Bid item. These items cannot be deleted or added as additional cost item(s) (i.e. options), even if not noted specifically in the specifications.

D.2 DELIVERY:

D.2.2 DELIVERY DATE PROPOSED BY BIDDER: 180 calendar days from date of Purchase Order.

Failure to provide a delivery schedule or submittal of proposed delivery dates later than those required, may result in Bid rejection. Submittal of delivery dates providing for earlier delivery than required by the State will bind the Bidder, should it be awarded a Price Agreement, but shall not be considered for award purposes.

D.2.3. DELIVERY CHARGE (SEE SECTIONS G.3 AND H.3): ALL VEHICLES DELIVERED WITHIN SALEM OREGON AND PORTLAND OREGON CITY LIMITS SHALL NOT BE CHARGED FOR DELIVERY.

D.2.3A. DELIVERY CHARGES FOR ALL OTHER DESTINATIONS WILL BE BY MUTUAL AGREEMENT BETWEEN THE CONTRACTOR AND AUTHORIZED PURCHASER AT TIME OF ORDER.

D.2.3A.1. AUTHORIZED PURCHASER RESERVES THE RIGHT TO PICK UP ORDERED VEHICLE(S) AT CONTRACTOR'S BUSINESS ADDRESS AND NOT INCUR ANY DELIVERY CHARGES.

D.2.3B DELIVERY COMPONENTS: Delivery shall include all of the following items (collectively referred to as "Delivery Components").

D.2.3B(a) A copy of all product information and instructions supplied by the manufacturer. Also see C.22.

D.2.3B(b) One (1) copy of the operator's manual and all other operator information and instructions provided by the manufacturer.

D.2.3B(c) Data sheets (furnished by the Oregon Department of Transportation (ODOT) for ODOT orders only) will be filled out by Contractor with applicable data and shall be delivered with each Unit.



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D.2.3B(d) A manufacturer's Statement of Origin signed off to the Authorized Purchaser.

D.2.3B(e) Keys, two sets, plus vehicle ID number shall be supplied for each vehicle at time of delivery. All keys shall be same shape and size as original. Each ordered vehicle shall be keyed differently.

D.3 CORRECTION OF BID PRICING PERTAINING TO OPTIONS: In the event optional equipment pricing furnished by Bidder/Contractor [or the PC Car Maker Program] is entered incorrectly, the State reserves the right to correct the Bidder/Contractor's typographical error for that option bid under Section 3 of Categories I.

D.4 FLEET VEHICLES: A manufacturers fleet vehicles shall not be bid for this requirement,

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D.5 - CATEGORY I

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D.5 TECHNICAL SPECIFICATIONS: This Bid covers Standard model vehicles,

D.5.2 BID FORMAT FOR EACH CATEGORY:

D.5.2a SECTION 1 - Required equipment for all items bid.

D.5.2b SECTION 2 - Required minimum specifications for each Bid item.

D.5.2c SECTION 3 - Mandatory options for each Bid item, that shall be used as part of the award criteria.

D.5.2d SECTION 4 - Mandatory option pricing for undercoating, and keys for all Bid items. Bidders shall submit pricing for this section, although it is not part of award criteria.

D.6. - CATEGORY I, SECTION 1 - REQUIRED EQUIPMENT FOR ALL  
SPORT UTILITIES

D.6.1a BODY STYLE:

D.6.1a.1 - Full length solid top.

D.6.1a.2 - Four passenger seating (minimum).

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D.6.1b EXTERIOR:

D.6.1b.1 - Color, shall be solid, Standard color.

D.6.1b.2 - Mirror, Outside Rear-View, to be manufacturer's Standard, but shall at least be a four (4) inch diameter minimum both left and right.

D.6.1c INTERIOR:

D.6.1c.1 - Radio, standard manufacturer's AM/FM with multiple speakers and Standard antenna (Factory installed).

D.6.1d OTHER:

D.6.1d.1 - Spare tire and wheel will be the same size as Bid on the base unit.

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SECTION 4 - CATEGORY I  
DEALER OPTION PRICING

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D.11 UNDERCOATING: Bidders shall provide mandatory pricing for all Bid item.

\$125.00

D.16 EXTRA CODED KEYS: Bidders shall provide mandatory pricing for extra keys requested by the Authorized Purchaser. See D.2.3B(e).

Bid cost per key - \$ 15.00

Bid cost for Coded Key - \$57.00

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SECTION E - ORCPP, AND WSPC PARTICIPATION

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Bidder shall specify below whether it will accept orders from, and provide the Goods/Services specified in the ITB to ORCPP Participants ("Contract Authorization"). CONTRACT AUTHORIZATION FOR ORCPP PARTICIPANTS:

CONTRACT AUTHORIZATION FOR ORCPP PARTICIPANTS: YES

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SECTION F - PRICE AGREEMENT TERMS AND CONDITIONS

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F.1. TERM OF PRICE AGREEMENT: The initial term of the Price Agreement shall be one (1) year, beginning on the date the Price Agreement is awarded.

F.2 EXTENSIONS: Upon concurrence of the parties, the Price Agreement may be extended for additional terms ("Extension Terms"). Provided, however, that the maximum duration of the Price Agreement, including all extensions, shall not exceed five (5) years.

F.2.1 RENEWAL NOTICE. DAS shall notify Contractor in writing of its intent to extend the Price Agreement ("Renewal Notice") at least ninety (90) calendar days prior to the expiration of the then-current term.

F.2.2 CONTRACTOR CONSENT. If Contractor consents to the extension, it shall sign and return the Renewal Notice to DAS within the time period specified therein. If Contractor's consent is contingent upon a price increase, it shall so signify on the Renewal Notice, and shall sign and return it to DAS, together with cost/price documentation supporting the requested increase, within the time period specified.

F.3 EXTENSION TERM PRICE ADJUSTMENTS:

F.3.1 BASIS FOR PRICE INCREASE. Price increases, if granted, shall be based solely upon increases in manufacturer's invoice price to Contractor or decreases, if any, in manufacturer's assistance to Contractor.

F.3.2 DAS'S DISCRETION. DAS reserves the right in its sole discretion to determine whether to agree to a price increase for an Extension Term. It further reserves the right to require additional documentation, or to independently verify the basis for and validity of any proposed price increase utilizing its internal price review and analysis protocols. DAS may accept or reject the requested increase or offer some lesser amount.

F.3.3 COMPROMISE OR REJECTION. In the event DAS offers some compromise amount or rejects the requested price increase, Contractor may elect to agree to the proposed Extension Term under those conditions, or allow the Price Agreement to expire. However, Contractor has no right to receive, or claim for failure to receive, a price increase for any Extension Term.

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F.3.4 PRICE ADJUSTMENT FIRM. Approved price increases shall be firm for the duration of the applicable Extension Term. Provided, however, no more than one price increase shall be allowed during any twelve-month period regardless of the number of Extension Terms entered into during that time.

F.4 ONE MONTH EXTENSION OPTION: Notwithstanding the foregoing Sections F.1 through F.3, DAS reserves the right in its sole discretion to extend the Price Agreement for a maximum of one (1) calendar month beyond any term. DAS shall notify Contractor in writing of the one-month extension prior to the expiration of the then-current term. Price adjustments are not available for one-month extensions obtained pursuant to this Section F.4. Consecutive one-month extensions under this Section are also not allowed.

F.5 GOODS AND SERVICES TO BE FURNISHED: During the term of the Price Agreement Contractor agrees to deliver all Goods and provide all services ordered by Authorized Purchasers in accordance with the terms and conditions of the Contract.

F.5.1. COST OF OPTIONS. The cost to Authorized Purchasers of options shall be at manufacturers invoice price to the Contractor.

F.5.2. MANUFACTURERS REBATES, INCENTIVES, ADDITIONAL WARRANTIES. Contractor shall honor and pass on to Authorized Purchasers any additional warranties (written or unwritten) extended by the manufacturer. Contractor shall pass on to Authorized Purchasers all additional rebates or incentives offered by the manufacturer for vehicles purchased under the Price Agreement, whether or not figured in the original Bid price quoted.

F.6 PURCHASE ORDERS: Contractor shall not accept any Purchase Order that does not comply with the following requirements:

F.6.1 STATE AGENCIES: Purchasing Agencies shall use the DAS-approved Purchase Order forms to order Goods and/or Services under the Price Agreement unless otherwise authorized by DAS. Purchase Orders shall incorporate the Price Agreement by reference, and identify the Price Agreement number, the ITB number, and Bid item number(s) of the Unit(s) and options ordered.

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However, no language in a Purchase Order submitted by a State Agency shall vary, amend, modify, or add terms or conditions to the Price Agreement. Operative provisions in Purchase Orders shall be limited to: designation of Authorized Purchaser and its authorized representative; identification of Goods and order quantities; optional Services, equipment and accessories offered under the terms of the Price Agreement; delivery schedules in accordance with the terms of the Price Agreement; and Delivery Destination and invoicing address.

**F.6.2 ORCPP PARTICIPANTS:** ORCPP Participants shall use their own Purchase Order forms to order under the Price Agreement. The Mandatory Purchase Authorization Language set out in Section F.6.3 shall be required on the front page of each Purchase Order submitted to Contractor by an ORCPP Participant for Goods and/or Services ordered under the Price Agreement.

**F.6.3 MANDATORY PURCHASE ORDER LANGUAGE:**

THIS PURCHASE IS PLACED AGAINST STATE OF OREGON SOLICITATION # 10200045-04 AND PRICE AGREEMENT # -ORDERING ORGANIZATION WILL INSERT PRICE AGREEMENT #. THE CONTRACT TERMS AND CONDITIONS AND SPECIAL CONTRACT TERMS AND CONDITIONS (T'S & C'S) CONTAINED IN THE PRICE AGREEMENT ARE HEREBY INCORPORATED BY REFERENCE AND SHALL APPLY TO THIS PURCHASE AND SHALL TAKE PRECEDENCE OVER ALL OTHER CONFLICTING T'S AND C'S, EXPRESS OR IMPLIED.

**F.6.4** In the event a court of competent jurisdiction determines that a Purchase Order constitutes an offer rather than an acceptance, then acceptance by Contractor shall be limited to the terms of the Contract as stipulated in this ITB.

**F.7 SALES TO UNAUTHORIZED PURCHASERS:** It is the Contractor's responsibility to verify Authorized Purchasers' authority to contract pursuant to the Price Agreement. If Contractor is found to have entered into two or more Contracts with an entity other than an Authorized Purchaser, Contractor will be deemed to be in material breach of the Price Agreement.

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F.8 VERIFICATION OF PARTICIPANT AUTHORITY:

F.8.2 ORCPP Participants can be verified via on-line Vendor Information Program (VIP), Menu Option #6, Directories. VIP can be accessed by: (A) Personal Computer (PC)/Modem connection using VIPCOMM communication software available at no charge. Call DAS Purchasing @ (503) 378-4649 to obtain copy; or (B) PC/Modem connection using Contractor's own communication software (read only); or (C) Worldwide Web: <http://tpps.das.state.or.us/purchasing>; or (D) Procurement Centers (located throughout Oregon). Call (503) 378-4649 for information or to view list of centers identified on DAS Purchasing's Web page.

F.9 NOT APPLICABLE THIS ITB.

F.10 ADMINISTRATIVE FEES AND VOLUME SALES REPORTS:

F.10.1. ADMINISTRATIVE FEES/PAYMENT: Contractor shall pay to Department of Administrative Services (DAS) State Purchasing Office, Administrative Fee (VCAF), in an amount equal to Two (2) Percent, of the base unit price of the vehicle (price on page one of Price Agreement), of Contractor's total sales made to Authorized Purchasers using this Price Agreement during the preceding quarter. For the purposes of this Price Agreement quarters end March 31, June 30, September 30, and December 31. VCAF is billed to the Contractor from DAS Purchasing Office on a State invoice generated upon receipt and using the volume of sales reported by the Contractor on the Volume Sales Report (VSR) from the Contractor. Contractor is held responsible for timely reporting and payment, regardless of entity that actually reports or makes VCAF payment to DAS Purchasing.

F.10.2. ACCOUNTING AND REQUIRED REPORTS: Contractor shall submit a Volume Sales Report not later than fifteen days at the end of each calendar quarter or date specified, which contains:  
(i) complete and accurate details of the Net Receipts for the relevant quarterly period; (ii) Contractor's corresponding calculation of the VCAF due to DAS Purchasing for that period; and (iii) such other information as DAS Purchasing may informally request. Contractor shall send a Volume Sales Report each quarter, whether or not there are reportable sales or VCAF due to DAS Purchasing.

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F.10.3. VOLUME SALES REPORT (VSR) INFORMATION. Contractor shall provide the following information on the VSR:

- F.10.3.1 ITB Item number,
- F.10.3.2 Recycled/non-recycled content,
- F.10.3.3 Customer name. Separately identify State Agencies and ORCPP. List each State Agency separately,
- F.10.3.4 Purchase Order number,
- F.10.3.5 Date ordered,
- F.10.3.6 Quantity ordered (Price List Items),
- F.10.3.7 Unit price and extended total,
- F.10.3.8 Total Dollar Amount for ending Quarter.

F.10.4. VOLUME SALES REPORT FORMAT: Contractor shall provide Report(s) in a format approved by both parties. Reports on 3.5 inch diskette or by e-mail are preferred; however, hard copy reports are acceptable. The following format examples are preferred for VSR:

- F.10.4.1. Excel Spreadsheet
- F.10.4.2. Lotus Spreadsheet
- F.10.4.3. All other report formats must be approved and agreed upon by DAS Contract Administrator and Contractor prior to submission of the first report.

F.10.5. REPORT RECEIPT/ACCEPTANCE: The Department of Administrative Service's (DAS)' receipt or acceptance of any of the reports furnished pursuant to this Price Agreement, or any sums paid hereunder, shall not preclude DAS from challenging the validity thereof at any time.

F.10.6. DAS RESERVES THE RIGHT TO CANCEL THIS PRICE AGREEMENT IF VOLUME SALES REPORTS ARE NOT RECEIVED AS SCHEDULED.

F.10.7. PAYMENT OF VCAF. Upon receipt of the invoice from DAS Purchasing, Contractor shall remit payment to DAS Purchasing for the amount indicated on the invoice. Contractor shall contact the Contract Administrator as identified in the Price Agreement if no invoice is received within thirty (30) days after sending the VSR to DAS Purchasing. Failure to send VSR does not release Contractor from requirement to remit required VCAF.

F.10.7.1. The fee shall be in the form of a check remitted to:

Department of Administrative Services  
Attn: State Procurement Office  
1225 Ferry Street SE, U140  
Salem, Oregon 97301-4285

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F.10.7.2. If the total VCAF to be paid for the quarter does not exceed \$ 100.00, Contractor shall not be required to submit the affected Administrative Fee and shall add such fee to the amount owed for the next succeeding quarter. These Administrative Fees shall not be subject to interest accrual as explained in F.10.8.

F.10.8. INTEREST: Any payments Contractor makes or causes to be made to DAS Purchasing after the due date as indicated on invoice, shall accrue interest at a rate of 18% per annum or the maximum rate permitted by law, whichever is less, until such overdue amount shall have been paid in full. DAS'S right to interest on late payments under F.10. shall not preclude DAS from exercising any of its other rights or remedies pursuant to this Price Agreement or otherwise with regards to Contractor's failure to make timely remittances.

F.10.9 COMPLIANCE AUDITS. Each Contractor will be monitored by DAS for compliance throughout the term of the Price Agreement(s) through the reports required under Section F.10. Additionally, DAS reserves the right to audit each Contractor's Price Agreement(s) and Contract files.

F.10.9.1 In the event that any such audit reveals underpayment of Administrative Fees, the affected Contractor shall forthwith pay the amount of deficiency, together with interest thereon at the rate provided in Section F.10.1. At DAS request, the affected Contractor shall pay the reasonable costs of an audit if such audit shows an underpayment exceeding TEN PERCENT (10%) of the Administrative Fees due during the Administrative Periods audited.

F.10.10. THE STATE RESERVES THE RIGHT TO TERMINATE ANY PRICE AGREEMENT(S) AWARDED IF REPORTS ARE NOT RECEIVED AS SCHEDULED.

F.11 LIMITATION OF LIABILITY: Contractor acknowledges and agrees that the State shall bear no liability on Contracts entered into for purchases by non-State Agencies, which liability the State expressly disclaims. With regard to non-State Agencies, Contractor agrees to look solely to the respective contracting party for any rights and remedies Contractor may have at law or in equity arising out of the sale and purchase of Contractor's Goods and/or Services and the resulting contractual relationship, if any, with each such contracting party.



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F.12 INDEMNIFICATION: Contractor shall defend, save, hold harmless, and indemnify the State, its agencies, departments, divisions, and their officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever (collectively, "Claim") resulting from, arising out of, or relating to the Price Agreement and Contracts, including but not limited to (1) the activities of Contractor or its officers, employees, subcontractors, or agents, (2) the Goods sold, and (3) the Services provided.

F.12.1 Provided, however the Oregon Attorney General must give written authorization to any legal counsel purporting to act in the name of, or represent the interests of, the State and/or its officers, employees and agents prior to such action or representation. Further, the State, acting by and through its Department of Justice, may assume its own defense, including that of its officers, employees and agents, at any time when in the State's sole discretion it determines that (i) proposed counsel is prohibited from the particular representation contemplated; (ii) counsel is not adequately defending the interests of the State and/or its officers, employees and agents; (iii) important governmental interests are at stake; or (iv) the best interests of the State are served thereby. Contractor's obligation to pay for all costs and expenses shall include those incurred by the State in assuming its own defense and/or that of officers, employees, and agents under (i) and (ii) above.

F.13 EVENTS OF DEFAULT:

F.13.1 CONTRACTOR. Contractor shall be in default under the Price Agreement if:

F.13.1.1 Contractor breaches any Price Agreement or Contract covenant, warranty, certification, or obligation;

F.13.1.2 Contractor institutes an action for relief in bankruptcy or has instituted against it an action for insolvency; makes a general assignment for the benefit of creditors; or ceases doing business on a regular basis of the type identified in Contractor's obligations under the Price Agreement and Contracts entered into thereunder; or

F.13.1.3 Contractor attempts to assign rights in, or delegate duties under, the Price Agreement or any Contract entered into thereunder, without DAS' prior written consent.

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F.13.2 STATE. The State shall be in default under the Price Agreement if the State fails to make timely payment under any Contract for its purchase(s).

F.14 TERMINATION:

F.14.1 MUTUAL CONSENT. The Price Agreement may be terminated at any time by mutual written consent of the parties.

F.14.2 STATE.

F.14.2.1 DAS may, at its sole discretion, terminate the Price Agreement, in whole or in part, for convenience.

F.14.2.2 DAS shall be excused from performance and may terminate the Price Agreement, in whole or in part, immediately upon notice to Contractor, or at such later date as DAS may establish in such notice, upon the occurrence of any of the following events: (i) federal or State laws, regulations, or guidelines are modified or interpreted in such a way that the purchase by Authorized Purchasers of Goods offered under the Price Agreement is prohibited, or (ii) Contractor is in default of a material provision of the Price Agreement or any Contract entered into thereunder. Pursuant to this Section F.14.2.2, upon receipt of written notice of termination, Contractor shall stop performance under the Price Agreement as directed by DAS.

F.15 REMEDIES: State shall be entitled to recover any and all damages it may suffer as the result of Contractor's material breach of the Price Agreement, including but not limited to direct, indirect, incidental, and consequential damages, and any equitable remedies to which it may show itself entitled. Contractor's remedy shall be restricted to reinstatement of the Price Agreement if wrongfully terminated by DAS. However, with the exception of defense costs and expenses pursuant to F.12, neither party shall be entitled to recover attorney's fees, court and investigative costs, or any other fees or expenses associated with pursuing a remedy for damages arising out of or relating to the Price Agreement.

F.16 NOTICES: All notices required to be given by Contractor under the Price Agreement shall be in writing and addressed to the DAS point of contact identified in the ITB. All notices required to be given by the State shall be in writing, addressed to the Contractor's representative, and sent to the address specified in the Bid. Mailed notices shall be deemed given five (5) business days after post marked, when deposited, properly addressed and prepaid, into the U.S. postal service. Faxed notices shall be deemed given upon electronic confirmation of successful transmission to the designated fax number.

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F.17 ACCESS TO RECORDS: Contractor shall maintain all fiscal records relating to the Price Agreement in accordance with generally-accepted accounting principles, and shall maintain all other records relevant to Contractor's performance of the Price Agreement (collectively, "Records"). The State and its duly authorized representatives shall have access to Records for purposes of examination and copying. Contractor shall retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law following expiration or termination of the Price Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to the Price Agreement, whichever date is later.

F.18 SEVERABILITY: If any provision of the Price Agreement is declared by a court of competent jurisdiction to be illegal or otherwise invalid, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Price Agreement did not contain the particular provision held to be invalid.

F.19 SURVIVAL: Termination of the Price Agreement shall not extinguish or prejudice the State's right to enforce the warranty, access to records, indemnification, governing law, venue, consent to jurisdiction, and remedies provisions.

F.20 ASSIGNMENT/SUBCONTRACT/SUCCESSORS: Contractor shall not assign, sell, transfer, or subcontract rights or delegate responsibilities under the Price Agreement, in whole or in part, without the prior written approval of DAS. Further, no such written approval shall relieve Contractor of any obligations under the Price Agreement, and any assignee or delegate shall be considered the agent of Contractor. The provisions of the Price Agreement shall be binding upon and shall inure to the benefit of the parties to the Price Agreement and their respective successors and permitted assigns.

F.21 GOVERNING LAW: The Price Agreement shall be governed by and construed in accordance with the internal laws of the State of Oregon without regard to principles of conflicts of law.

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F.22 VENUE; CONSENT TO JURISDICTION: Any claim, action, suit or proceeding (collectively, "Claim") between the State and Contractor that arises from or relates to the Price Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then unless otherwise prohibited by law it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

CONTRACTOR, BY SUBMITTAL OF ITS SIGNED BID, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Nothing herein shall be construed as a waiver of the State's sovereign or governmental immunity, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or of any defenses to claims or jurisdiction based thereon.

F.23 MERGER CLAUSE; AMENDMENT; WAIVER: The Price Agreement constitutes the entire agreement between the Contractor and the State on the subject matter thereof. There are no understandings, agreements, or representations, oral or written, not specified therein regarding the Price Agreement. No waiver, consent, or amendment of terms of the Price Agreement shall be binding either party to: (a) the Price Agreement or (b) Contracts entered into thereunder, unless such is in writing, is signed by both parties to the Price Agreement, and all necessary approvals have been obtained. Waivers and consents shall be effective only in the specific instance and for the specific purpose given. The failure of DAS to enforce any provision of the Price Agreement shall not constitute a waiver by the State of that or any other provision.

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SECTION G - STANDARD CONTRACT TERMS AND CONDITIONS

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G.1 ORDER OF PRECEDENCE: The printed Terms and Conditions set out in this Section G are the Standard Terms and Conditions for State of Oregon contracts. The State may also provide Special Terms and Conditions in Section H, which apply only to Contract(s) entered into under the Price Agreement. Whenever possible, all terms and conditions are to be harmonized. In the event of a conflict between the Standard and Special Terms and Conditions, the Special Terms and Conditions take precedence, unless the Standard term in question is required by law. In the event of any other conflict, the Contract shall be interpreted utilizing the following order of precedence: (i) the Special Terms and Conditions, (ii) these Standard Terms and Conditions, (iii) the Specifications, (iv) the remaining portions of the Invitation to Bid, (v) the Bid, and (vi) the Purchase Order.

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**G.2 PURCHASE ORDERS:**

**G.2.1 DAS; PURCHASING AGENCIES:** Purchase Orders shall incorporate the Price Agreement by reference, and identify the Price Agreement number, the ITB number, and the Bid item number(s) of the Unit(s) and options ordered. However, no language in a Purchase Order shall vary, amend, modify, or add terms or conditions to the Price Agreement. Operative provisions in Purchase Orders shall be limited to: designation of Authorized Purchaser and its authorized representative; identification of Goods and order quantities; optional Services, equipment and accessories offered under the terms of the Price Agreement; delivery schedules in accordance with the terms of the Price Agreement; and Delivery Destination and invoicing addresses.

**G.2.2 ORCPP;** The Mandatory Purchase Authorization Language set out in Section G.2.3 shall be required on the front page of each Purchase Order submitted to Contractor by an ORCPP Participant for Goods and/or Services ordered under the Price Agreement.

**G.2.3 ORCPP MANDATORY PURCHASE ORDER LANGUAGE:**

THIS PURCHASE IS PLACED AGAINST STATE OF OREGON SOLICITATION # 10200045-04 AND PRICE AGREEMENT # -ORDERING ORGANIZATION WILL INSERT PRICE AGREEMENT #. THE CONTRACT TERMS AND CONDITIONS AND SPECIAL CONTRACT TERMS AND CONDITIONS (T'S & C'S) CONTAINED IN THE PRICE AGREEMENT ARE HEREBY INCORPORATED BY REFERENCE AND SHALL APPLY TO THIS PURCHASE AND SHALL TAKE PRECEDENCE OVER ALL OTHER CONFLICTING T'S AND C'S, EXPRESS OR IMPLIED.

**G.2.4** In the event a court of competent jurisdiction determines that the Purchase Order constitutes an offer rather than an acceptance, then acceptance by Contractor shall be limited to the terms of the Contract as stipulated in the ITB.

**G.3 DELIVERY DESTINATION:** Goods, including all Delivery Components and options and attachments, if any, shall be delivered F.O.B. destination to the address or location specified in the Purchase Order ("Delivery Destination"), together with all Delivery Components, warranty documentation, inspection reports, and certifications, where applicable. Provided, however, Contractor may charge Authorized Purchaser a delivery charge in accordance with the provisions of D.2.3.

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**G.4 PAYMENT; OVERDUE ACCOUNT CHARGES:** Payment shall be due and owing no later than thirty (30) calendar days from date of acceptance or expiration of inspection period, whichever occurs first. (Payment alone, however, shall not constitute acceptance.) Contractor may only assess overdue account charges, in accordance with the provisions of ORS 293.461(3), up to a maximum rate of two-thirds of one percent per month (8% per annum).

**G.5 PAYMENT ADDRESS:** Payment shall be sent to Contractor at the address specified in the invoice.

**G.6 INVOICES:** Each invoice shall include the applicable Purchase Order number, vehicle ID number of the Unit and that of all optional attachments, if any. Contractor shall invoice Authorized Purchaser upon delivery of entire order.

**G.7 MOST FAVORABLE PRICES AND TERMS:** Contractor represents that all prices, terms and benefits offered by Contractor are equal to or better than the equivalent prices, terms and benefits being offered by Contractor to any other state or local government unit or commercial customer.

**G.7.1** Should Contractor, during the term of the Contract, enter into any contract, agreement or arrangement that provides lower prices, more favorable terms or greater benefits to any other such government unit or commercial customer, the Contract shall thereupon be deemed amended to provide the same price or prices, terms and benefits to the Authorized Purchaser. This provision applies to comparable Goods and Services, and to purchase volumes by the Authorized Purchaser that are not less than the purchase volumes of the government unit or commercial customer that has received the lower prices, greater benefits or more favorable terms.

**G.7.2** Donations of Goods or Services to charitable, nonprofit or government entities, if the donations are recognized as such and are deductible under the federal Internal Revenue Code, shall not be considered contracts, agreements, sales or arrangements with other government units or commercial customers that call for the application of this paragraph.

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**G.8 INSPECTIONS/ACCEPTANCE:** The Authorized Purchaser shall have fourteen (14) calendar days from date of delivery of the Goods within which to inspect and accept or reject them. If the Goods are rejected, Authorized Purchaser shall provide Contractor with written notification of rejection. Notice of rejection shall include itemization of apparent defects, including but not limited to (i) discrepancies between the Goods and the applicable specifications or warranties; (ii) other apparent defects in design, materials, or manufacture; and/or (iii) otherwise nonconforming Goods (including late delivery). Notice of rejection shall also indicate whether cure will be allowed.

**G.8.1 CURE:** The Authorized Purchaser may elect to have the Contractor deliver substitute Goods that comply with the Contract specifications and warranties, or have the Goods repaired, at Authorized Purchaser's option. The Contractor shall either deliver substitute conforming Goods or make all corrections reasonably deemed necessary by the Authorized Purchaser within ten (10) calendar days of receipt of notice of rejection and opportunity to cure. Failure to complete cure within the ten (10)-calendar-day period shall constitute default.

**G.8.2 REMOVAL/REIMBURSEMENT:** If the Goods are rejected or acceptance is revoked, the Contractor shall refund any Contract payments that have been made with regard to the rejected Goods, and shall (at Contractor's sole cost and expense) remove the Goods within seven (7) calendar days of receiving notice of rejection or revocation of acceptance. Nothing contained in this Section G.8 shall preclude the Authorized Purchaser from other remedies to which it may be entitled upon rejection or revocation of acceptance.

**G.9. WARRANTIES:**

**G.9.1. AUTHORITY; BINDING OBLIGATION:** Contractor represents and warrants that Contractor has the power and authority to enter into and perform the Contract and that the Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms.

**G.9.2. WARRANTY ON MATERIALS, DESIGN, MANUFACTURE:** Contractor warrants that all Goods shall be new, unused, current production models. Where specifications have been made a part of the ITB, Contractor further warrants that all Goods shall be in compliance with and meet or exceed all specifications. Manufacturer's warranty against defects in materials, design and manufacture shall extend for not less than three (3) years or thirty-six thousand miles bumper to bumper.

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G.9.3. WARRANTY ON SERVICE STANDARDS: Contractor warrants that all services, where provided, shall be performed in a good and workmanlike manner by properly certified, licensed, qualified personnel, and in accordance with the highest applicable professional and/or industry standards.

G.9.4 WARRANTY OF SAFETY AND HEALTH REQUIREMENTS: Contractor warrants that the Goods comply with all applicable federal and State health and safety standards, including but not limited to, Occupational Safety and Health Administration (OSHA) and Oregon Occupational Safety and Health Administration (OROSHA).

G.9.5 MANUFACTURER WARRANTIES: Contractor shall have all manufacturer warranties covering the Goods and component parts, where applicable, transferred to the Authorized Purchaser (or the State, if Authorized Purchaser is a State Agency) at time of delivery at no charge.

G.9.6 WARRANTY OF TITLE. Contractor warrants that all Goods are free and clear of any liens or encumbrances, and that Contractor has full legal title to the Goods, and that no other person has any right, title or interest in the Goods which shall be superior to or infringe upon the rights granted to Authorized Purchaser (or the State if Authorized Purchaser is a State Agency).

G.9.7 WARRANTIES CUMULATIVE: The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided in the Contract. All warranties provided in the Contract shall be cumulative, and shall be interpreted expansively so as to afford the Authorized Purchaser (or the State, if Authorized Purchaser is a State Agency) the broadest warranty protection available.

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## G.10 COMPLIANCE WITH APPLICABLE LAWS AND STANDARDS:

G.10.1 Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Contract. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Contract: (i) Titles VI and VII of Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) The Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vi) The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (vii) ORS Chapter 659, as amended; (viii) all regulations and administrative rules established pursuant to the foregoing laws; and (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. The laws, regulations, and executive orders applicable to the Contract are incorporated by reference where so required by law. For public Contracts as defined in ORS 279.310 (1), Authorized Purchaser's performance is conditioned upon Contractor's compliance with ORS 279.312, 279.314, 279.316, and 279.320, the terms of which are incorporated by reference into such Contracts.

G.10.2 In the event of a conflict between the Specifications and applicable federal or State laws, the federal or state laws shall prevail. Provided, however, in the event any conflict is based solely upon minimum standards, such as quality or safety, the higher or more stringent standard shall apply. Contractor shall be responsible for making any modifications required to achieve compliance with the required laws and standards. Contractor shall notify the Authorized Purchaser of any such required modifications upon receipt of knowledge or notification of such.

G.10.3 In the event any Good or component part is recalled by a regulatory body or the manufacturer, or discovered by Contractor not to be in compliance with the applicable standards, Contractor shall immediately notify the Authorized Purchaser at the address specified in the Authorized Purchaser's Purchase Order of the recall or non-compliance, and shall provide copies of the notice or other documentation. The Authorized Purchaser may elect to cancel any order and terminate the Contract in whole or in part, based upon such recall or non-compliance, or may require Contractor to promptly provide substitute Goods or complete necessary modifications, where applicable.

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G.10.4 Contractor shall be responsible for promptly removing recalled or non-compliant Goods and for making any required substitutions or modifications, including shipping, handling, parts, labor, and travel, and all other expenses, at no cost to the Authorized Purchaser.

G.10.5 Notwithstanding the foregoing G.10.3 and G.10.4, in the event required modifications impair the utility of a Unit for its intended purpose or level of function in the reasonable opinion of Authorized Purchaser, Authorized Purchaser may elect to cancel any order and/or terminate the Contract in whole or in part, at no cost or penalty. Contractor shall be responsible for removing the non-compliant Goods, wherever located, at no cost to the Authorized Purchaser, and for reimbursing Authorized Purchaser all amounts paid, less the value of the use of such non-compliant Goods while in Authorized Purchaser's possession. As used in this Section, "cost" includes labor, transportation and shipping costs, insurance, travel, meals, accommodations, etc.

G.11 FOREIGN CONTRACTOR: If the amount of a Contract with an Oregon Authorized Purchaser exceeds \$10,000 and if Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue all information required by that Department relative to the Contract. The Oregon Authorized Purchaser shall be entitled to withhold final payment under the Contract until Contractor has met this requirement.

G.12 MATERIAL SAFETY DATA SHEET: Contractor shall provide the Authorized Purchaser with a Material Safety Data Sheet as defined by the Occupational Safety and Health Administration (OSHA) for any Goods provided under the Contract which may release or otherwise result in exposure to a hazardous chemical under normal conditions of use. In addition, Contractor must label, tag or mark such Goods.

G.13 RECYCLED PRODUCTS: Contractor shall use recycled and recyclable products to the maximum extent economically feasible in the performance of the Contract if Authorized Purchaser is subject to ORS 279.555. These products shall include recycled paper, recycled PETE products, as defined in ORS 279.545(5), and other recycled plastic resin products. Contractor shall specify the minimum percentage of recycled product incorporated into the Goods provided under the Contract.

G.14 TIME IS OF THE ESSENCE: Contractor agrees that time is of the essence for Contractor's performance obligations under the Contract.

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G.15 FORCE MAJEURE: Neither Authorized Purchaser nor Contractor shall be held responsible for delay or default caused by fire, riot, acts of God, war, or any other cause which is beyond the party's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under the Contract. The Authorized Purchaser may terminate the Contract upon written notice after reasonably determining that such delay or default will likely prevent successful performance of the Contract.

G.16 STATE AGENCIES ONLY: FUNDS AVAILABLE AND AUTHORIZED; PAYMENTS:

G.16.1 If Authorized Purchaser is a State Agency, the following applies: Authorized Purchaser has sufficient funds available and authorized within its biennial appropriation or limitation to finance the cost of purchases under the Contract prior to the end of the current biennium. Contractor understands and agrees that Authorized Purchaser's payment of amounts under the Contract attributable to purchases made after the last day of the current biennium is contingent on Authorized Purchaser's receiving from the Oregon Legislative Assembly appropriations, limitations, or other expenditure authority sufficient to allow Authorized Purchaser, in the exercise of its reasonable administrative discretion, to continue to make payments under the Contract.

G.16.2 Agency will only pay for completed Goods and Services that are accepted by Agency.

G.17 TERMINATION:

G.17.1 MUTUAL CONSENT: The Contract may be terminated at any time by mutual written consent of the parties.

G.17.2 AUTHORIZED PURCHASER:

G.17.2(a) If Authorized Purchaser is a State Agency, it may in its sole discretion, at any time terminate the Contract, in whole or in part, for convenience.

G.17.2(b) Authorized Purchaser is excused from performance and may terminate the Contract, in whole or in part, immediately upon notice to Contractor, or at such later date as Authorized Purchaser may establish in such notice, upon the occurrence of any of the following events:

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G.17.2(b) (CONTINUED) (i) Authorized Purchaser fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for the Goods to be purchased and/or the Services to be provided under the Contract; or (ii) federal or state laws, regulations, or guidelines are modified or interpreted in such a way that either the purchase of Goods and/or Services by Authorized Purchaser under the Contract is prohibited, or the Authorized Purchaser is prohibited from paying for such Goods and/or Services from the planned funding source; or (iii) Contractor breaches any material provision of the Contract. Pursuant to this section, upon receipt of written notice of termination, Contractor shall stop performance under the Contract as directed by the Authorized Purchaser.

G.17.3 CONTRACTOR: Contractor may terminate the Contract immediately upon notice to Authorized Purchaser, or at such later date as it may establish in such notice, upon material breach of the Contract by Authorized Purchaser.

G.18 INDEMNIFICATION:

G.18.1 Contractor shall defend, save, hold harmless, and indemnify the Authorized Purchaser (or the State if Authorized Purchaser is a State Agency) and its officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, and costs and expenses of any nature whatsoever (collectively, "Claim") resulting from, arising out of, or relating to (i) the activities of Contractor or its officers, employees, subcontractors, or agents, (ii) the Goods sold, and (iii) the Services provided pursuant to the Contract.

G.18.2 Provided, however, that with regard to State Agencies the Oregon Attorney General must give written authorization to any legal counsel purporting to act in the name of, or represent the interests of, the State and/or its officers, employees and agents prior to such action or representation. Further, the State, acting by and through its Department of Justice, may assume its own defense, including that of its officers, employees and agents, at any time when in the State's sole discretion it determines that (i) proposed counsel is prohibited from the particular representation contemplated; (ii) counsel is not adequately defending the interests of the State and/or its officers, employees and agents; (iii) important governmental interests are at stake; or (iv) the best interests of the State are served thereby. Contractor's obligation to pay for all costs and expenses shall include those incurred by the State in assuming its own defense and/or that of its officers, employees, and agents under (i) and (ii) above.

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G.19 REMEDIES:

G.19.1 AUTHORIZED PURCHASER: In addition to the remedies afforded elsewhere herein, Authorized Purchaser (or the State, if Authorized Purchaser is a State Agency) shall be entitled to recover for any and all damages suffered as the result of Contractor's breach of Contract, including but not limited to direct, indirect, incidental and consequential damages, as provided in ORS 72.7110 to 72.7170. Authorized Purchaser (or the State, if Authorized Purchaser is a State Agency) shall also be entitled to any equitable remedies to which it may show itself entitled.

G.19.2 CONTRACTOR: Contractor's remedy shall be restricted to recovery of actual damages incurred as the result of material breach of the Contract by Authorized Purchaser.

G.19.3 ATTORNEYS' FEES: With the exception of defense costs and expenses pursuant to G.18, neither party shall be entitled to recover attorney's fees, court and investigative costs, or any other fees or expenses associated with pursuing a remedy for damages arising out of or relating to the Contract.

G.20 TRADE SECRETS: Contractor shall label the information and documentation qualifying as trade secrets under ORS 192.501(2) that it wishes to protect from disclosure to third parties with the following: "This data constitutes a trade secret under ORS 192.501(2) and is not to be disclosed except as required by law." Authorized Purchaser will take reasonable measures to hold in confidence all such labeled information and documentation. Provided, however, Authorized Purchaser shall not be liable for release of any information when authorized or required by law or court order to do so, whether pursuant to Oregon Public Records Law or otherwise. Further, if Authorized Purchaser is a State Agency, it shall also be immune from liability for disclosure or release of information under the circumstances set out in ORS 646.473(3).

G.21 ACCESS TO RECORDS: Contractor shall maintain all fiscal records relating to the Contract in accordance with generally-accepted accounting principles, and shall maintain all other records relevant to Contractor's performance of the Contract (collectively, "Records"). Authorized Purchaser and its duly authorized representatives shall have access to Records for purposes of examination and copying. Contractor shall retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law following expiration or termination of the Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to the Contract, whichever date is later.

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**G.22 NOTICES:** All notices required under the Contract shall be in writing and addressed to the party's authorized representative. For Authorized Purchasers, the authorized representative shall be identified in the Purchase Order. Contractor's authorized representative shall be the individual specified in the Bid. Mailed notices shall be deemed given five (5) business days after post marked, when deposited, properly addressed and prepaid, into the U.S. postal service. Faxed notices shall be deemed given upon electronic confirmation of successful transmission to the designated fax number.

**G.23 GOVERNING LAW:** The Contract shall be governed by and construed in accordance with the internal laws of the State of Oregon without regard to principles of conflicts of law. With regard to Goods, the UCC shall govern this transaction, as modified by the terms of the Contract.

**G.24 VENUE; CONSENT TO JURISDICTION:**

**G.24.1 STATE CONTRACT VENUE; CONSENT TO JURISDICTION:** Any claim, action, suit or proceeding (collectively, "Claim") between a State Agency and Contractor that arises from or relates to the Contract shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then unless otherwise prohibited by law it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. **CONTRACTOR HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.** Nothing herein shall be construed as a waiver of the State's sovereign or governmental immunity, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or of any defenses to Claims or jurisdiction based thereon.

**G.24.2 ORCPP CONTRACT VENUE; CONSENT TO JURISDICTION:** Any Claims between Contractor and an ORCPP Authorized Purchaser that arise from or relate to the Contract shall be brought and conducted solely and exclusively within the Circuit Court of the county in which such Authorized Purchaser resides, or at Authorized Purchaser's option, within such other county as Authorized Purchaser shall be entitled under the laws of the relevant jurisdiction to bring or defend Claims. If any such Claim must be brought in a federal forum, then unless otherwise prohibited by law it shall be brought and conducted solely and exclusively within the United States District Court for the District in which such Authorized Participant resides. **CONTRACTOR HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.**

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G.24.2 (CONTINUED) Nothing herein shall be construed as a waiver of Authorized Purchaser's sovereign or governmental immunity, if any, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or of any defenses to Claims or jurisdiction based thereon.

G.25 SURVIVAL: Termination of the Contract shall not extinguish or prejudice Authorized Purchaser's (or the State's, if Authorized Purchaser is a State Agency) right to enforce the warranty, indemnification, access to records, governing law, venue, consent to jurisdiction, and remedies provisions.

G.26 SEVERABILITY: If any provision of the Contract is declared by a court of competent jurisdiction to be illegal or otherwise invalid, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

G.27 ASSIGNMENT/SUBCONTRACT/SUCCESSORS: Contractor shall not assign, sell, transfer, or subcontract rights or delegate responsibilities under the Contract, in whole or in part, without the prior written approval of Authorized Purchaser (or DAS, if Authorized Purchaser is subject to DAS purchasing authority). Further, no such written approval shall relieve Contractor of any obligations under the Contract, and any delegate shall be considered the agent of Contractor. The provisions of the Contract shall be binding upon and shall inure to the benefit of the parties to the Contract and their respective successors and permitted assigns.

G.28 MERGER CLAUSE; AMENDMENT; WAIVER: The Contract constitutes the entire agreement between the parties on the subject matter thereof. There are no understandings, agreements, or representations, oral or written, not specified therein regarding the Contract. No waiver, consent, or amendment of terms of the Contract shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained (including that of DAS if Authorized Purchaser is subject to DAS purchasing authority). Waivers and consents shall be effective only in the specific instance and for the specific purpose given. The failure of the Authorized Purchaser to enforce any provision of the Contract shall not constitute a waiver by the Authorized Purchaser of that or any other provision.

G.29 INSURANCE: Contractor shall obtain prior to performing any work under the Contract, and maintain during the term of the Contract (including all warranty periods) the insurance required under Section I.

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PA NUMBER: 4184

With regard to workers' compensation insurance, all employers, including Contractor, that employ subject workers who work under the Contract in the State of Oregon shall comply with ORS 656.017 and provide the required workers' compensation coverage, unless such employers are exempt under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements.

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SECTION H - SPECIAL CONTRACT TERMS AND CONDITIONS

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H.1 Upon request by Authorized Purchaser, Contractor shall provide color chips for all Standard and optional exterior colors.

H.2 PLACEMENT OF ORDERS:

H.2.1 Contractor shall have ten (10) business days from receipt of Purchase Order containing all required information to process order to manufacturer and verify processing of order with the Authorized Purchaser.

H.2.2 Contractor shall provide a copy of the build order verification to the Authorized Purchaser within four (4) business days of receipt from the manufacturer. Contractor's failure to timely provide this verification to the Authorized Purchaser may be grounds for default and the Contract may be canceled.

H.2.3 Authorized Purchaser will be responsible for verifying accuracy of the order and notifying the Contractor of errors, if any, within five (5) business days of receiving the build order verification from the Contractor.

H.2.4 Contractor shall notify Authorized Purchaser of build date, delivery time, or any changes to such upon receipt of notice from manufacturer within four (4) business days of manufacturers notification.

H.4 FUEL: Each vehicle shall be delivered or held ready for pick up with no less than a half tank of fuel.

H.5 BACK ORDER: Delivery charges for back orders shall be paid by Contractor.



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H.6 ADDITIONAL REMEDIES FOR NON-CONFORMING GOODS:

H.6.1 If the Contractor can no longer obtain a substitute conforming vehicle, then Contractor, upon the consent of the Authorized Purchaser, shall provide a substitute vehicle with substantially equivalent equipment, all at the Contract price.

H.6.2 If a vehicle with substantially equivalent equipment cannot be supplied, then Contractor shall provide the next year's model with the original equipment ordered, all at the Contract price.

H.7 MANUFACTURER CANCELLATION OF ORDER: Contractor shall not be liable when, through no fault of the Contractor, the manufacturer is not able to build an ordered vehicle or the manufacturer cancels the order for a vehicle.

H.8 PRE-DELIVERY INSPECTION: The Authorized Purchaser can request to have a pre-delivery inspection at Contractor's location to insure specification compliance PRIOR TO DELIVERY.

H.8.1 If a missing part, component, or accessory cannot be provided and installed within fourteen (14) calendar days of notice by the Authorized Purchaser, the Authorized Purchaser shall have the right to buy the item or part from another source and bill the Contractor or deduct the cost from the Contractor's invoice for the vehicle, including costs of installation.

H.9 LIQUIDATED DAMAGES: Contractor is required to place orders with the manufacturer within ten (10) business days after receipt of Purchase Order.

H.9.1 The Authorized Purchaser may assess Liquidated damages of TEN DOLLARS (\$10.00) for delay for each calendar day, per each Unit, for which the Contractor is over the ten (10) days order deadline in placing the order with the manufacturer.

H.10. Disclosure of Social Security Number. Contractor must provide Contractor's Social Security number unless Contractor provides a federal tax ID number. This number is requested pursuant to ORS 305.385 and OAR 150-305.100. Social Security numbers provided pursuant to this authority will be used for the administration of state, federal and local tax laws.

GENK1690.DOC DAS Hybrid Utility Vehicle ITB (rel. ver. 9/3/04)

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE: Approve the purchase of two 1/2 ton pick-up trucks for the Police Department.

PREPARED BY: Ben Tracy, Fleet Coord. DEPT HEAD OK: [Signature] CITY MGR OK: EAN [Signature]

ISSUE BEFORE THE COUNCIL

Shall the Local Contract Review Board approve the purchase of two 1/2 ton pick-up trucks for use by the City's Police Department?

STAFF RECOMMENDATION

Staff recommends that the Local Contract Review Board approve the purchase of two 1/2 ton pick-up trucks, utilizing an existing State of Oregon Contract, to be used to replace two existing vehicles.

INFORMATION SUMMARY

The Police Department currently has the need to upgrade two vehicles assigned to Community Service Officers (CSOs), a 1994 Chevrolet S-10 pick-up with 62,000 miles and a 1995 Chevrolet S-10 pick-up with 70,000 miles. The need to upgrade these vehicles as arisen due to the Police Department's requirements for the CSOs vehicles to have a larger cab space for needed equipment and to have more towing capacity for various equipment. The S-10 pick-ups that are to be replaced will be added to the City's pool fleet and be assigned to other departments.

Given the vehicle needs of the Police Department, staff has determined that larger sized trucks will be a better fit for the CSOs. The 1/2 pick-ups provide the large cab room that the CSOs will need for their equipment, including mobile data terminals, emergency response equipment and other necessary items. The 1/2 ton pick-ups will also provide more towing power that is needed by the Department to transport equipment, such as the mobile traffic speed radar sign, and vehicles, such as the Department's motorcycle trailers. Staff has further determined that the best means to procure these trucks would be through the utilization of State of Oregon contract #2344, which the City is eligible to use through it's membership in the Oregon Cooperative Purchasing Program. Utilizing this contract will save the City staff time and cost in preparing a solicitation for the trucks.

OTHER ALTERNATIVES CONSIDERED

1. Direct staff to prepare and advertise an Invitation to Bid solicitation for the purchase of the replacement vehicles.
2. Do not replace vehicles at this time.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

None.

ATTACHMENT LIST

1. State of Oregon contract #2344.

FISCAL NOTES

The cost of each truck is \$19,930 for a total of \$39,860. Currently the City has \$40,000 budgeted for the trucks within the Police Department's budget.

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PRICE AGREEMENT SUMMARY PAGE: 1  
COMMODITY CODE: 07048 PA NUMBER: 2344  
BUYER NAME: W. JACOBS (503) 378-4646 REVISION NUMBER: 004  
EFFECTIVE DATE: 08/01/2004

ITEM: CHEVROLET SILVERADO 1/2 TON, 4X4, EXTENDED CAB SWB  
STARTING WITH 2003 MODELS WITH OPTION TO RENEW FOR  
ADDITIONAL TERMS

AGENCY: STATE AGENCIES AND AUTHORIZED ORCPP MEMB

CONTRACTOR: MURRAY CHEVROLET  
1999 E POWELL BLVD  
PO BOX 750  
GRESHAM OR 97080

PH#:(503) 661-2222 FAX:00000000009327 CONTACT:JACK WHITE

BRAND/TRADE NAME: CHEVROLET SILVERADO, 1/2 TON,EXTENDED CAB,4X4,SWB

PRICE: \$18,690.00

TERMS: NET 30  
FOB: FOB DESTINATION

CONTRACT PERIOD: DEC 2 2002 THROUGH JUL 30 2005

DAYS REQUIRED FOR DELIVERY: 120 DAYS AFTER RECEIPT OF PURCHASE ORDER  
MINIMUM ORDER: ONE UNIT  
TRANSPORTATION CHARGES: NONE WITHIN SALEM OR PORTLAND CITY LIMIT  
OTHER CONDITIONS: DELIVERY CHARGES FOR ALL OTHER DESTINA-  
TIONS WILL BE BY MUTUAL AGREEMENT BETWEEN  
THE CONTRACTOR AND AUTHORIZED PURCHASER  
AT TIME OF ORDER

PRICE AGREEMENT HAS BEEN RENEWED FOR THE 2005 MODEL YEAR

FOR CONTRACTOR PROVIDED UNDERCOATING AND EXTRA KEY COSTS, SEE SECTION  
4 OF THE SUMMARY UNDER D.22 AND D.23

THIS CONTRACT COVERS ONLY THOSE ITEMS LISTED.

DATE OF ISSUANCE: 12/03/2002  
BID NO.: 10200063 02

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ITEM - 00001 UNIT - EA COMMODITY - 07048 PRICE - \$18,690.0000  
Year: 2005 Make: Chevy Pickups

Model: Silverado 1500 Style: K15753 Ext Cab 143.5" WB 4WD

\*\*\*\*\* STANDARD EQUIPMENT \*\*\*\*\*

## &lt;&lt;&lt; MECHANICAL &gt;&gt;&gt;

Engine, Vortec 4800 V8 SFI (270 HP ~201.4 kW) @ 5200 rpm, 285 lb.-ft.  
~384.7 N-m @ 4000 rpm)  
Transmission, 4-speed automatic, electronically controlled,  
w/overdrive & tow/haul mode  
Transfer case, floor-mounted shifter  
Four wheel drive  
Battery, heavy-duty, 600 cold-cranking amps-including: rundown  
protection & retained accessory power  
Alternator, 105 amps  
Pickup bed, Fleetside, all-welded steel w/double wall construction &  
corrosion protection  
Recovery hooks, 2 front, frame-mounted  
GVWR, 6400 lbs. (2903 kg)  
Suspension Package, Solid Smooth Ride  
Suspension, front, independent torsion bar, & stabilizer bar  
Suspension, rear, semi-elliptic 2-stage multi-leaf springs  
Tires, P245/75R16, all-season, blackwall  
Wheels, 4 - 16" x 7" (40.6 cm x 17.8 cm) 6-lug steel,  
painted-including: painted center caps & steel spare  
Tire carrier, outside spare, winch-type mounted under frame at rear  
Steering, power  
Brakes, 4-wheel antilock, 4-wheel disc  
26 gallon fuel tank  
Exhaust, aluminized stainless-steel muffler & tailpipe  
Tools, mechanical jack & wheel wrench, gloves, courtesy mat,  
spare tire assist hook, floor-mounted in back of cab

## &lt;&lt;&lt; EXTERIOR &gt;&gt;&gt;

Paint, solid  
Bumper, front, chrome, w/dark gray lower  
\* Bumper, rear, painted black step-including: pad  
Air dam, Gray  
Grille, Gray surround  
Headlamps, dual halogen composite-including: flash-to-pass feature  
& automatic lamp control  
Daytime running lamps-including: automatic exterior lamp control  
Lamps, dual cargo area lamps  
Mirrors, outside rearview, foldaway, manual, Black, adjustable heads

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Glass, Solar-Ray light tinted, all windows  
Windows, rear quarter swing-out  
Wipers, intermittent, front wet-arm w/pulse washers

## &lt;&lt;&lt; INTERIOR &gt;&gt;&gt;

Seats, front vinyl 40/20/40 split-bench, 3-passenger, driver & passenger manual reclining w/outboard head restraints, available in front cloth  
Seats, rear bench, full width, folding, 3-passenger  
(-including: child seat top tether anchor)  
Floor covering, rubberized vinyl, Black  
Steering column, Tilt-Wheel, adjustable-including: brake/transmission shift interlock  
Steering wheel, steel sleeve-including: theft-deterrent locking feature  
Theft-deterrent system, PASSLock II  
Instrumentation, analog-including: speedometer, odometer w/trip odometer, fuel level, voltmeter, engine temperature, oil pressure & tachometer  
Driver Information Center-including: trip odometer & message center (monitors numerous systems depending on vehicle equipment-including: low fuel, turn signal "on", transmission temperature, low engine coolant level, battery not charging, oil pressure, & engine oil change notification)  
Warning tones, headlamp on, key-in-ignition, driver safety belt unfasten, turn signal on  
Air conditioning, dual-zone, manual, individual climate settings for driver & right front passenger  
Sound system, ETR AM/FM stereo-including: seek-&-scan, digital clock & 4-speakers  
Cupholders, front & rear  
Cigarette lighter, on instrument panel  
Power outlets, auxiliary, covered, 2 dash-mounted, 12-volt  
Mirror, inside rearview, manual day/night  
Headliner, Shale-colored cloth, w/matching retainer moldings  
Visors, padded, Shale-colored, driver & passenger side w/cloth trim, extenders, pocket on driver side & vanity mirror on passenger side  
Assist handles, front passenger & outboard rear seats  
Lighting, dome lamp, reading, courtesy, illuminated entry feature, backlit instrument panel switches & door handle-activated illuminated entry  
Coat hooks, driver & passenger side

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## &lt;&lt;&lt; SAFETY &gt;&gt;&gt;

Brakes, 4-wheel antilock, 4-wheel disc  
Air bags, frontal, driver & right front passenger-including:  
Passenger Sensing System  
Daytime running lamps-including: automatic exterior lamp control

## \*\*\*\*\* FACTORY OPTIONS \*\*\*\*\*

OPTION CODES	DESCRIPTION	Invoice
K15753	Ext Cab 143.5" WB 4WD	18690.00

## &lt;&lt;&lt; BODY CODE &gt;&gt;&gt;

—	PICKUP BED, FLEETSIDE, ALL-WELDED STEEL-including: double wall construction & corrosion protection (STD)	0.00
E62	PICKUP BED, SPORTSIDE, REACTION-INJECTED MOLDING (RIM), FLEXIBLE, DENT-RESISTANT & CORROSION-RESISTANT (N/A w/L59 Engine)	683.70

## &lt;&lt;&lt; SUSPENSION PKG &gt;&gt;&gt;

Z83	SUSPENSION PACKAGE, SOLID SMOOTH RIDE (STD) (N/A w/Z82 Trailering)	0.00
Z85	SUSPENSION PACKAGE, HANDLING/TRAILERING, HEAVY-DUTY	81.70

## &lt;&lt;&lt; EMISSIONS &gt;&gt;&gt;

FE9	EMISSIONS, FEDERAL REQUIREMENTS	0.00
YF5	EMISSIONS, CALIFORNIA STATE REQUIREMENTS	0.00

VCL EMISSIONS CERTIFICATION, CFF (CLEAN FUEL  
FLEET) LEV (LOW EMISSION VEHICLE) Option VCL  
should ONLY be ordered to receive the CFF LEV  
certification. If VCL is not ordered, the

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vehicle will be produced with your normally selected emission system and may not be CFF LEV certified. Products ordered with the VCL option may not be certified to California emission requirements. Therefore, they may not be legal for registration in California, New York, Massachusetts, Maine & Vermont. Option YF5 should be ordered for all vehicles ordered in California 0.00

## &lt;&lt;&lt; ENGINE &gt;&gt;&gt;

LR4 ENGINE, VORTEC 4800 V8 SFI-including: 270 HP ~201.4  
kW @ 5200 rpm, 285 lb.-ft. ~384.7 N-m @  
4000 rpm (STD) 0.00

LM7 ENGINE, VORTEC 5300 V8 SFI-including: 285 HP ~212.6  
kW @ 5200 rpm, 325 lb.-ft. ~438.7 N-m @  
4000 rpm 688.00

## &lt;&lt;&lt; TRANSMISSION &gt;&gt;&gt;

M30 TRANSMISSION, 4-SPEED AUTOMATIC,  
ELECTRONICALLY CONTROLLED W/OVERDRIVE &  
TOW/HAUL MODE (STD) 0.00

## &lt;&lt;&lt; DIFFERENTIAL &gt;&gt;&gt;

— NO LOCKING DIFFERENTIAL 0.00

G80 DIFFERENTIAL, LOCKING, HEAVY-DUTY, REAR 253.70

## &lt;&lt;&lt; AXLE &gt;&gt;&gt;

GT4 REAR AXLE, 3.73 RATIO 0.00

GT5 REAR AXLE, 4.10 RATIO 43.00

## &lt;&lt;&lt; PREFERRED EQUIPMENT GROUP &gt;&gt;&gt;

1SA PREFERRED EQUIPMENT GROUP 0.00

## &lt;&lt;&lt; TIRES &gt;&gt;&gt;

QNK TIRES, P245/75R16, ALL-SEASON, BLACKWALL  
(STD) 0.00

QNL TIRES, P245/75R16, ALL-SEASON, WHITE

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OUTLINED-LETTER 107.50

QBN TIRES, LT245/75R16C, ON-/OFF-ROAD, BLACKWALL  
(N/A w/Z83 Suspension) 137.60

QBX TIRES, LT245/75R16C, ON-/OFF-ROAD, WHITE  
OUTLINED-LETTER (N/A w/Z83 Suspension)  
245.10

## &lt;&lt;&lt; SEAT TYPE &gt;&gt;&gt;

AE7 SEATS, FRONT VINYL 40/20/40 SPLIT-BENCH,  
3-PASSENGER, DRIVER & PASSENGER MANUAL  
RECLINING W/OUTBOARD HEAD RESTRAINTS,  
Available in front cloth (STD) 0.00

## &lt;&lt;&lt; SEAT TRIM &gt;&gt;&gt;

\_C CLOTH SEAT TRIM 0.00

\_V VINYL SEAT TRIM 0.00

## &lt;&lt;&lt; PAINT &gt;&gt;&gt;

\_\_\_ PAINT, SOLID (STD) 0.00

## &lt;&lt;&lt; RADIO &gt;&gt;&gt;

\_\_\_ SOUND SYSTEM, ETR AM/FM STEREO-including: seek-&-  
scan, digital clock & 4-speakers (STD) 0.00

UB0 SOUND SYSTEM, ETR AM/FM STEREO W/CD PLAYER  
-including: seek-&-scan, digital clock, auto-tone  
control, speed-compensated volume, Radio Data  
System (RDS) & 6-speakers 219.30

## &lt;&lt;&lt; WHEELS &gt;&gt;&gt;

\_\_\_ WHEELS, 4-16" X 7" (40.6 CM X 17.8 CM) 6-LUG  
STEEL, PAINTED-including: painted center caps &  
steel spare (STD) 0.00

\_\_\_ WHEELS, 4-16" X 6.5" (40.6 CM X 16.5 CM)  
6-LUG CHROME-STYLED STEEL-including: chrome center  
caps & steel spare (REQ: PDE Exterior  
Appearance Pkg) 0.00

## &lt;&lt;&lt; ADDITIONAL OPTIONS &gt;&gt;&gt;



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- PDE EXTERIOR APPEARANCE PACKAGE-including: (B85)  
Moldings, bodyside, Black, (TR3) Grille,  
color-keyed surround, (PY2) Wheels, 4-16" x  
6.5" (40.6 cm x 16.5 cm) 6-lug chrome-styled  
steel and (AJ1) Glass, Solar-Ray deep tinted.  
w/E62 483.32  
w/Fleetside Body 543.52  
— AIR CLEANER, HIGH-CAPACITY (REQ: Z82  
Trallering Equipment or VYU Snow Plow Prep  
Pkg) 0.00
- KNP COOLING, EXTERNAL TRANSMISSION OIL COOLER,  
AUXILIARY, HEAVY-DUTY AIR-TO-OIL 81.70
- TP2 BATTERY, AUXILIARY HEAVY-DUTY, 600  
COLD-CRANKING AMPS (REQ: LR4 or LM7 Engine) 116.10
- K34 CRUISE CONTROL, ELECTRONIC W/SET & RESUME  
SPEED-including: telltale in instrument panel  
cluster 199.20
- C49 DEFOGGER, REAR-WINDOW, ELECTRIC 150.50
- PDD FLOOR COVERING, COLOR-KEYED BOTH CARPETING &  
MATS 86.00
- V43 BUMPER, REAR, PAINTED STEP-including: pad (N/A  
w/E62 Sportside Body) \*CREDIT\* -86.00
- BVE ASSIST STEPS, STANLESS STEEL W/CHROME PLATED  
FINISH, TUBULAR Designed to match the chrome  
vehicle trim accents. The steps are made from  
a long-lasting & durable stainless steel to  
provide added protection against corrosion.  
Mounted between the front & rear wheels  
beneath the bottom of the rocker panels. These  
steps are dealer installed & ship seperately  
from vehicle to parts dept w/VIN ID on  
packaging. 387.00
- BVS ASSIST STEPS, STANLESS STEEL W/BLACK COATED  
FINISH, TUBULAR Designed to match the black  
vehicle trim accents. The steps are made from  
a long-lasting & durable stainless steel to  
provide added protection against corrosion.  
Mounted between the front & rear wheels  
beneath the bottom of the rocker panels. These

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steps are dealer installed & ship separately  
from vehicle to parts dept w/VIN ID on  
packaging. 354.32

PUB PROTECTORS, PICKUP BED, TOP RAIL, BLACK  
MOLDED PROTECTORS designed to protect pickup  
bed top rails from dents, dings, & scratches.  
\*Dealer installed accessory & requires no  
drilling or fasteners\* (REQ: Fleetside Body) 102.34

PPB PICKUP BED, EXTENDER expand hauling  
capabilities, brushed aluminum swings out  
over an open tailgate for added length to  
contain cargo & swings back into bed for  
storage when not in use. Weighing 16.1 lbs.,  
this Dealer installed accessory part is  
easily installed using a bracket system,  
attaching to existing vehicle hardware &  
requires no drilling. (N/A w/E62 Body) 180.60

SAF SPARE TIRE LOCK keyed cylinder lock that  
utilizes same key as ignition & door 12.90

AU3 DOOR LOCKS, POWER PROGRAMMABLE 139.32

AJ1 GLASS, SOLAR-RAY DEEP TINTED (all windows  
except light tinted glass on windshield,  
driver & front passenger) \*Rear window is  
light tinted w/C49 Defogger\* 92.02

K05 ENGINE BLOCK HEATER 30.10

VK3 LICENSE PLATE BRACKET, FRONT (will be forced  
on orders w/ship-to states that require a  
front license plate) 0.00

DF2 MIRRORS, OUTSIDE REARVIEW, FOLDAWAY, MANUAL,  
CAMPER-STYLE, BLACK, HIGH VISIBILITY,  
EXTENDABLE-including: dual segment mirror on  
driver's side that provides enhanced wide  
angle capacity (not recommended for bodies or  
trailers wider than 86" ~218.4 cm) 60.20

NZZ SKID PLATE PACKAGE-including: aluminum front  
underbody shield starting behind front bumper

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& running to 1st cross-member, protecting  
front underbody, oil pan, differential case &  
transfer case, frame-mounted shields 81.70

Z82 TRAILERING EQUIPMENT, HEAVY-DUTY-including:  
trailer hitch platform, 7-wire harness  
(harness including: wires for: park lamps, backup  
lamps, right turn, left turn, electric brake  
lead, battery & ground) w/independent fused  
trailer circuits mated to a 7-way sealed  
connector. Also including: (K47) Air cleaner, high  
capacity. (N/A w/Z83 Suspension) 266.60

B71 WHEEL FLARES, FRONT & REAR (REQ: Fleetside  
Body) 154.80

NP8 TRANSFER CASE, ELECTRONIC AUTOTRAC-including: push-  
button controls (REQ: L59 Engine) 322.50

UY2 TRAILERING WIRING PROVISIONS, FOR CAMPER, 5TH  
WHEEL & GOOSENECK TRAILER-including: additional 8-  
way wiring harness routed to front of pickup  
box & added 7-way sealed connector for the  
trailer harness (REQ: Z82 Trailering) (N/A  
w/E62 Sportside Body) 30.10

— \*\*NATIONAL FLEET INCENTIVE AVAILABLE TO  
QUALIFIED FLEET BUYERS ONLY\*\* when VX5 is on  
the order, the fleet credit will equal the  
greater of either the national fleet  
allowance or retail incentive alternative IN  
EFFECT AT THE TIME OF DELIVERY 0.00  
VX5 FLEET INCENTIVE INVOICE CREDIT

\*\*\*\*\* WARRANTY \*\*\*\*\*

Basic: 3 Years/36,000 Miles  
Drivetrain: 3 Years/36,000 Miles  
Corrosion: 6 Years/100,000 Miles  
Roadside Assistance: 3 Years/36,000 Miles

Color Chart

2005 Chevy Silverado 1500 Ext Cab 143.5" WB 4WD

EXTERIOR COLORS ——— INTERIOR COLORS ———

Dark  
Chcl Tan

Light Pewter Met	X	X
Black	X	X

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Dark Green Metallic	X	X
Summit White	X	X
Dark Gray Metallic	X	X
Victory Red	X	X
Arrival Blue Met	X	X

## Color Chart Legend

Abbreviation ----- Full Name ----- Code -----

## INTERIOR COLORS

Dark Chcl	Dark Charcoal	69
Tan	Tan	52

## EXTERIOR COLORS

Light Pewter Met	Light Pewter Metallic	11
Black	Black	41
Dark Green Metallic	Dark Green Metallic	47
Summit White	Summit White	50
Dark Gray Metallic	Dark Gray Metallic	62
Victory Red	Victory Red	74
Arrival Blue Met	Arrival Blue Metallic	91

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This is a "Price Agreement Summary" document placed on the State of Oregon's Vendor Information Program (VIP) system pursuant to the Price Agreement awarded for Invitation to Bid (ITB) #10200063-02, for Chevrolet Silverado, 1/2 Ton, Extended Cab, 4x4, SWB Pickup, starting with 2003 models. Some of the numbering sequences included in this document may appear to be out of order since the text for this summary document was taken directly from the Invitation to Bid./awarded Price Agreement.

\*\*\*\*\*

THIS PRICE AGREEMENT SUMMARY IS FOR INFORMATIONAL PURPOSES ONLY. IN THE EVENT THAT ANY PART OF THIS SUMMARY CONFLICTS WITH ANY OF THE TERMS AND CONDITIONS OF THE CONTRACT RESULTING FROM INVITATION TO BID #10200063-02, THE TERMS AND CONDITIONS OF SAID CONTRACT SHALL GOVERN. ALL TERMS AND CONDITIONS AND SPECIFICATION REQUIREMENTS AS STATED IN INVITATION TO BID #10200063-02 APPLY, EVEN THOUGH THEY MAY NOT BE STATED IN THIS PRICE AGREEMENT SUMMARY.

SECTION C - GENERAL BIDDING INFORMATION  
SECTION D - SPECIFICATIONS AND PRICING  
SECTION E - ORCPP PARTICIPATION  
SECTION F - PRICE AGREEMENT TERMS AND CONDITIONS  
SECTION G - STANDARD CONTRACT TERMS AND CONDITIONS  
SECTION H - SPECIAL CONTRACT TERMS AND CONDITIONS  
SECTION I - INSURANCE REQUIREMENTS  
SECTION J - CONTRACTOR REFERENCES

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SECTION C - GENERAL BIDDING INFORMATION

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C.1 GENERAL DEFINITIONS:

C.1.1 "Addendum" or "Addenda" means an addition or deletion to, a material change in, or clarification of, the ITB. Addenda shall be labeled as such and shall be made available to all interested Bidders in accordance with the OAR 125-030-0007(4).

C.1.2 "Authorized Purchaser" means the State of Oregon, acting by and through DAS. It also means Purchasing Agencies receiving an account number and purchasing product pursuant to DAS purchasing authority and direction, and may also include ORCPP Participants with appropriate purchasing authority under their applicable rules or regulations who receive account numbers and purchase product.

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C.1.3 "Bid" means the Bidder's written offer submitted in response to an ITB, including all necessary attachments. (Refer to Section C.4.1.)

C.1.4 "Bid Closing" means the date and time set in the ITB for Bid submission, after which Bids may not be submitted, modified, or withdrawn by Bidder.

C.1.5 "Bid Item" means the individual items one (1) through sixteen (16) identified in the Pricing Submittal Section.

C.1.6 "Bid Opening" means the same date and time set for Bid Closing, unless otherwise specified in Section C.10.

C.1.7 "Bidder" means the person or other legal entity that submits a Bid in response to an ITB.

C.1.8 "Contract" means the entire agreement between the Contractor and the Authorized Purchaser, comprised of the Price Agreement and a signed Purchase Order.

C.1.9 "Contractor" means the person or other legal entity with whom the State enters into a Price Agreement setting prices for the purchase of Goods and/or services pursuant to the ITB, and with whom Authorized Purchasers subsequently contract through submittal of Purchase Orders.

C.1.10 "DAS" means the State Department of Administrative Services, acting through the State Procurement Office of the Procurement, Fleet and Surplus Services Division.

C.1.11 "Good" means the individual Bid item, including all installed components and accessories, if any, described in the ITB, as well as manufacturer options available to the general public.

C.1.12 "GVW" means Gross Vehicle Weight.

C.1.13 "Invitation to Bid" or "ITB" means the entire solicitation document, including all parts, sections, exhibits, attachments, and Addenda.

C.1.14 "ORCPP" means the Oregon Cooperative Purchasing Program, whose Participants include but are not limited to: cities, counties, school districts, special districts, Qualified Rehabilitation Facilities (QRFs), residential programs under contract with the Oregon Department of Human Services, United States governmental agencies, and American Indian tribes or agencies.

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C.14.a. "ORCPP" also includes quasi-State Agencies such as Oregon Department of Higher Education, Oregon Health Sciences University, and Oregon State Lottery with statutory authority or autonomy to solicit for Goods/services independently.

C.1.15 "Participants" means members of ORCPP.

C.1.16 "Price Agreement" means the Invitation to Bid and the successful Bidder's Bid. It is the agreement between the Contractor and the State under which the Contractor agrees to hold prices, terms and conditions firm for a specified period of time for the benefit of Authorized Purchasers.

C.1.17 "Purchase Order" means the purchase order document submitted to Contractor by Authorized Purchasers for the purchase of Goods and/or services under the Price Agreement.

C.1.18 "Purchasing Agency" means a State Agency subject to DAS purchasing authority under ORS 279.712.

C.1.19 "Specifications" means the specific attributes of the Goods to be purchased or Services to be provided, if any.

C.1.20 "Services" means the services to be performed under the Contract incidental to the purchase of Goods.

C.1.21 "Standard" means everything that the manufacturer of a Unit offers to the general public (consumer goods) during the applicable model year as standard equipment on the particular model.

C.1.22 "State" means the State of Oregon.

C.1.23 "State Agency" means every board, commission, department, or agency of the State of Oregon, whose costs are paid, in whole or in part, from funds held in the State Treasury.

C.1.24 "UCC" means the Uniform Commercial Code, ORS chapters 71, 72, and 72A, as applicable and as amended from time to time.

C.1.25 "Unit" and "Good" may on occasion be used interchangeably; in such cases "Unit" shall mean "Good," as defined in this Section.

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C.2 GENERAL INFORMATION:

C.2.1 BID SUBMITTAL ADDRESS AND BID CLOSING: DAS will receive sealed Bids until 2:30 p.m. (Pacific time) on the Bid Closing date specified on page one (1) of the ITB, or as amended by Addenda, at the office of DAS Central Purchasing, at the receptionist's desk, on the north end of the second floor, in the General Services Bldg., at 1225 Ferry St. SE U140, Salem, Oregon 97301-4285.

C.2.2 SINGLE POINT OF CONTACT: There will be only one point of contact during the procurement process. This includes the bidding process; requests for brand approval, change, clarification, and protests; the award process; and/or any other questions that may arise. The contact point for this ITB is John Weber, who can be contacted at (503) 373-1197 or via fax (503) 373-1626.

C.2.3 VIP SYSTEM:

C.2.3(a) VIP VENDOR HANDBOOK: New Bidders are encouraged to request a copy of "VIP Vendor Handbook." This brochure is available free of charge from DAS State Procurement Office, 1225 Ferry St. SE, U140, Salem, OR 97301 - 4285; telephone 503) 378-4642.

C.2.3(b) ITBs: ITBs, including all Addenda and most attachments, are posted on the vendor information program ("VIP System"). Bidders who do not have access to the VIP System may download copies at a Plan Center, or at DAS State Procurement Office, 1225 Ferry St. SE, Salem, Oregon. Bidders may also order hard copies from DAS State Procurement Office for a fee.

C.2.3(c) ATTACHMENTS: NONE for this solicitation.

C.2.3(d) ADDENDA: Addenda can be downloaded from the Addenda Menu on the VIP System. Bidders should consult the VIP System regularly until Bid Closing to assure that they have not missed any Addenda announcements.

C.2.3(e) PLAN HOLDER'S LIST: IN ORDER TO APPEAR ON THE BID PLAN HOLDERS LIST, VENDORS MUST BE ENTERED ON THE VIP SYSTEM. Vendors can enter their vendor information via the internet at:

<http://tpps.das.state.or.us/purchasing>

VENDORS ARE RESPONSIBLE FOR ENSURING THAT THEIR VENDOR INFORMATION IS CURRENT AND CORRECT. DAS does not accept responsibility for incorrect vendor information shown on the VIP System, or information missing from it.



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C.2.4 BIDDERS NOTE: PRICING PAGES, SECTION D "SPECIFICATIONS", SECTION E "ORCPP PARTICIPATION", SECTION J "CONTRACTOR REFERENCES", SECTION H "SPECIAL CONTRACT TERMS AND CONDITIONS" AND SECTIONS I THROUGH VI CONTAIN INFORMATION REQUIRING RESPONSES OR ACKNOWLEDGEMENT FROM BIDDER.

C.2.5 TRADE SECRETS: Any information Bidder submits in response to the ITB that Bidder considers a trade secret under ORS 192.501(2) or confidential proprietary information, and that Bidder wishes to protect from public disclosure, must be clearly labeled with the following: "This information constitutes a trade secret under ORS 192.501(2) or confidential proprietary information, and is not to be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192." Bidders are cautioned that price information submitted in response to an ITB is generally not considered a trade secret under the Oregon Public Records Law. Further, information submitted by Bidder that is already in the public domain is not protected. The State shall not be liable for disclosure or release of any information when authorized or required by law or court order to do so. The State shall also be immune from liability for disclosure or release of information under the circumstances set out in ORS 646.473(3).

C.20 BID RESULTS: After awards are completed, Bidders may download a tabulation of Bid results from the VIP system. Alternatively, Bidders may submit a written request to DAS State Procurement Office for a copy the tabulation. Each request must indicate the Bid number and must include a self-addressed envelope and a \$5.00 check payable to the Department of Administrative Services.

C.21 REVIEW OF AWARDED BID FILES: Awarded Bid files are public records and available for review at the DAS State Procurement Office by appointment.

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#### SECTION D - SPECIFICATIONS

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D.1.4 NEW AND UNUSED: All Goods shall be new, unused, produced from current Standard production components, and shall be delivered ready for use.

D.1.5 STANDARD CONSTRUCTION: Unless superceded by the ITB specifications, Goods shall include all components and accessories listed by the manufacturer as Standard on Standard vehicles. All vehicles shall be of identical body style, quality, appointments, and design as those offered during the course of the model year to the general public.

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D.1.6 STANDARD VEHICLE COMPONENTS: ALL items, such as ashtrays, lighters, dome lights, inside mirrors, headlights, rear windshield wipers, ABS, Air bags etc., considered Standard factory equipment for the base model by the manufacturer, or which are required under federal regulations, shall be included as part of the base Bid item. These items cannot be deleted or added as additional cost item(s) (i.e. options), even if not noted specifically in the specifications.

D.1.7. EPA GREEN VEHICLE RATING: All vehicle(s) bid in this ITB shall be rated with at least three rating based on the EPA/Es Green Vehicle Class Rating. If the ratings for the 2003 model year vehicles are not available on the EPA website, the 2002 model year ratings shall be used. These ratings are available at: <http://www.epa.gov/autoemissions>.

D.1.8. MILEAGE RATINGS: Bidders shall submit with their bids a copy of the manufacturers mileage rating for each 2003 model year vehicle bid, if available. If the 2003 manufacturers mileage rating is not available, DAS shall use the 2002 mileage rating provided at the EPA/Es website: <http://www.epa.gov/autoemissions>

D.1.9. VEHICLE CONTROL IDENTIFICATION NUMBER (VEGIN): Bidders shall list for each vehicle bid, the twelve (12) character Vehicle Emission Control Identification Number (including the decimal point), that is on the permanently attached Vehicle Emission Control Information label usually affixed under the hood of each vehicle. This number can also be found at: <http://www.epa.gov/autoemissions>. Bids Items submitted without the Vehicle Emission Control Identification Number shall be rejected.

## D.2 DELIVERY:

D.2.2 DELIVERY DATE PROPOSED BY BIDDER: 120 calendar days from date of Purchase Order.

Failure to provide a delivery schedule or submittal of proposed delivery dates later than those required, may result in Bid rejection. Submittal of delivery dates providing for earlier delivery than required by the State will bind the Bidder, should it be awarded a Price Agreement, but shall not be considered for award purposes.

D.2.3. DELIVERY CHARGE (SEE SECTION H.3): ALL VEHICLES DELIVERED WITHIN SALEM OREGON AND PORTLAND OREGON CITY LIMITS SHALL NOT BE CHARGED FOR DELIVERY.

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D.2.3A. DELIVERY CHARGES FOR ALL OTHER DESTINATIONS WILL BE  
BY MUTUAL AGREEMENT BETWEEN THE CONTRACTOR AND AUTHORIZED  
PURCHASER AT TIME OF ORDER.

D.2.3A.1. AUTHORIZED PURCHASER RESERVES THE RIGHT TO PICK UP  
ORDERED VEHICLE(S) AT CONTRACTOR'S BUSINESS ADDRESS  
AND NOT INCUR ANY DELIVERY CHARGES.

D.2.3B DELIVERY COMPONENTS: Delivery shall include all of the  
following items (collectively referred to as "Delivery  
Components").

D.2.3B(a) A copy of all product information and instructions  
supplied by the manufacturer. Also see C.22.

D.2.3B(b) One (1) copy of the operator's manual and all  
other operator information and instructions provided by the  
manufacturer.

D.2.3B(c) Data sheets (furnished by the Oregon Department of  
Transportation (ODOT) for ODOT orders only) will be filled out  
by Contractor with applicable data and shall be delivered with  
each Unit.

D.2.3B(d) A manufacturer's Statement of Origin signed off to  
the Authorized Purchaser.

D.2.3B(e) Keys, two sets, plus vehicle ID number shall be supplied  
for each vehicle at time of delivery. All keys shall be same  
shape and size as original. Each ordered vehicle shall be keyed  
differently.

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SECTION 4 - CATEGORY'S I & II,  
DEALER OPTION PRICING

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D.22 UNDERCOATING: Bidders shall provide mandatory pricing for each  
item from both categories.

UNDERCOATING: \$185.00

D.23 EXTRA CODED KEYS: Bidders shall provide mandatory pricing for  
extra keys requested by the Authorized Purchaser. See D.2.3(e).

Bid cost per standard key - \$5.00

Bid cost per coded key @ N/A

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SECTION E - ORCPP PARTICIPATION

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Bidder shall specify below whether it will accept orders from, and provide the Goods/services specified in the ITB to ORCPP Participants ("Contract Authorization").

CONTRACT AUTHORIZATION FOR ORCPP PARTICIPANTS: YES

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SECTION F - PRICE AGREEMENT TERMS AND CONDITIONS

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F.1. TERM OF PRICE AGREEMENT: The initial term of the Price Agreement shall be one (1) year, beginning on the date the Price Agreement is awarded.

F.2 EXTENSIONS: Upon concurrence of the parties, the Price Agreement may be extended for additional terms ("Extension Terms"). Provided, however, that the maximum duration of the Price Agreement, including all extensions, shall not exceed five (5) years.

F.2.1 RENEWAL NOTICE. DAS shall notify Contractor in writing of its intent to extend the Price Agreement ("Renewal Notice") at least ninety (90) calendar days prior to the expiration of the then-current term.

F.2.2 CONTRACTOR CONSENT. If Contractor consents to the extension, it shall sign and return the Renewal Notice to DAS within the time period specified therein. If Contractor's consent is contingent upon a price increase, it shall so signify on the Renewal Notice, and shall sign and return it to DAS, together with cost/price documentation supporting the requested increase, within the time period specified.

F.3 EXTENSION TERM PRICE ADJUSTMENTS:

F.3.1 BASIS FOR PRICE INCREASE. Price increases, if granted, shall be based solely upon increases in manufacturer's invoice price to Contractor or decreases, if any, in manufacturer's assistance to Contractor.

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F.3.2 DAS'S DISCRETION. DAS reserves the right in its sole discretion to determine whether to agree to a price increase for an Extension Term. It further reserves the right to require additional documentation, or to independently verify the basis for and validity of any proposed price increase utilizing its internal price review and analysis protocols. DAS may accept or reject the requested increase or offer some lesser amount.

F.3.3 COMPROMISE OR REJECTION. In the event DAS offers some compromise amount or rejects the requested price increase, Contractor may elect to agree to the proposed Extension Term under those conditions, or allow the Price Agreement to expire. However, Contractor has no right to receive, or claim for failure to receive, a price increase for any Extension Term.

F.3.4 PRICE ADJUSTMENT FIRM. Approved price increases shall be firm for the duration of the applicable Extension Term. Provided, however, no more than one price increase shall be allowed during any twelve-month period regardless of the number of Extension Terms entered into during that time.

F.4 ONE MONTH EXTENSION OPTION: Notwithstanding the foregoing Sections F.1 through F.3, DAS reserves the right in its sole discretion to extend the Price Agreement for a maximum of one (1) calendar month beyond any term. DAS shall notify Contractor in writing of the one-month extension prior to the expiration of the then-current term. Price adjustments are not available for one-month extensions obtained pursuant to this Section F.4. Consecutive one-month extensions under this Section are also not allowed.

F.5 GOODS AND SERVICES TO BE FURNISHED: During the term of the Price Agreement Contractor agrees to deliver all Goods and provide all services ordered by Authorized Purchasers in accordance with the terms and conditions of the Contract.

F.6 PURCHASE ORDERS: Contractor shall not accept any Purchase Order that does not comply with the following requirements:

F.6.1 STATE AGENCIES: Purchasing Agencies shall use the DAS-approved Purchase Order forms to order Goods and/or services under the Price Agreement unless otherwise authorized by DAS. Purchase Orders shall incorporate the Price Agreement by reference, and identify the Price Agreement number, the ITB number, and Bid item number(s) of the Unit(s) and options ordered.

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However, no language in a Purchase Order submitted by a State Agency shall vary, amend, modify, or add terms or conditions to the Price Agreement. Operative provisions in Purchase Orders shall be limited to: designation of Authorized Purchaser and its authorized representative; identification of Goods and order quantities; optional Services, equipment and accessories offered under the terms of the Price Agreement; delivery schedules in accordance with the terms of the Price Agreement; and Delivery Destination and invoicing address.

F.6.2 ORCPP PARTICIPANTS: ORCPP Participants shall use their own Purchase Order forms to order under the Price Agreement. The Mandatory Purchase Authorization Language set out in Section F.6.3 shall be required on the front page of each Purchase Order submitted to Contractor by an ORCPP Participant for Goods and/or Services ordered under the Price Agreement.

F.6.3 MANDATORY PURCHASE ORDER LANGUAGE:

THIS PURCHASE IS PLACED AGAINST STATE OF OREGON SOLICITATION # 10200063-02 AND PRICE AGREEMENT # -ORDERING ORGANIZATION WILL INSERT PRICE AGREEMENT #. THE CONTRACT TERMS AND CONDITIONS AND SPECIAL CONTRACT TERMS AND CONDITIONS (T'S & C'S) CONTAINED IN THE PRICE AGREEMENT ARE HEREBY INCORPORATED BY REFERENCE AND SHALL APPLY TO THIS PURCHASE AND SHALL TAKE PRECEDENCE OVER ALL OTHER CONFLICTING T'S AND C'S, EXPRESS OR IMPLIED.

F.6.4 In the event a court of competent jurisdiction determines that a Purchase Order constitutes an offer rather than an acceptance, then acceptance by Contractor shall be limited to the terms of the Contract as stipulated in this ITB.

F.7 SALES TO UNAUTHORIZED PURCHASERS: It is the Contractor's responsibility to verify Authorized Purchasers' authority to contract pursuant to the Price Agreement. If Contractor is found to have entered into two or more Contracts with an entity other than an Authorized Purchaser, Contractor will be deemed to be in material breach of the Price Agreement.

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F.8 VERIFICATION OF PARTICIPANT AUTHORITY:

F.8.2 ORCPP Participants can be verified via on-line Vendor Information Program (VIP), Menu Option #6, Directories. VIP can be accessed by: (A) Personal Computer (PC)/Modem connection using VIPCOMM communication software available at no charge, Call DAS Purchasing @ (503) 378-4649 to obtain copy; or (B) PC/Modem connection using Contractor's own communication software (read only); or (C) Worldwide Web: <http://tpps.das.state.or.us/purchasing>; or (D) Procurement Centers (located throughout Oregon). Call (503) 378-4649 for information or to view list of centers identified on DAS Purchasing's Web page.

F.9 NOT APPLICABLE THIS ITB.

F.10 ADMINISTRATIVE FEES AND VOLUME SALES REPORTS:

F.10.1. ADMINISTRATIVE FEES/PAYMENT: Contractor shall pay to Department of Administrative Services (DAS) State Purchasing Office, Administrative Fee (VCAF), in an amount equal to Two (2) percent, of the base unit price of the vehicle (price on page one of Price Agreement), of Contractor's total sales made to Authorized Purchasers using this Requirements Price Agreement during the preceding quarter. For the purposes of this Requirements Price Agreement quarters end March 31, June 30, September 30, and December 31. VCAF is billed to the Contractor from DAS Purchasing Office on a State invoice generated upon receipt and using the volume of sales reported by the Contractor on the Volume Sales Report (VSR) from the Contractor. Contractor is held responsible for timely reporting and payment, regardless of entity that actually reports or makes VCAF payment to DAS Purchasing.

F.10.2. ACCOUNTING AND REQUIRED REPORTS: Contractor shall submit a Volume Sales Report not later than fifteen days at the end of each calendar quarter or date specified, which contains:  
(i) complete and accurate details of the Net Receipts for the relevant quarterly period; (ii) Contractor's corresponding calculation of the VCAF due to DAS Purchasing for that period; and (iii) such other information as Department may informally request. Contractor shall send a Volume Sales Report each quarter, whether or not there are reportable sales or VCAF due to DAS Purchasing.

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F.10.3. VOLUME SALES REPORT (VSR) INFORMATION. Contractor shall provide the following information on the VSR:

- F.10.3.1 ITB item number,
- F.10.3.2 Recycled/non-recycled content,
- F.10.3.3 Customer name. Separately identify State Agencies and ORCPP. List each state agency separately,
- F.10.3.4 Purchase Order number,
- F.10.3.5 Date ordered,
- F.10.3.6 Quantity ordered (Price List Items),
- F.10.3.7 Unit price and extended total,
- F.10.3.8 Total Dollar Amount for ending Quarter.

F.10.4. VOLUME SALES REPORT FORMAT: Contractor shall provide Report(s) in a format approved by both parties. Reports on 3.5 inch diskette or by e-mail are preferred; however, hard copy reports are acceptable. The following format examples are preferred for VSR:

- F.10.4.1. Excel Spreadsheet
- F.10.4.2. Lotus Spreadsheet
- F.10.4.3. All other report formats must be approved and agreed upon by DAS Contract Administrator and Contractor prior to submission of the first report.

F.10.5. REPORT RECEIPT/ACCEPTANCE: The Department of Administrative Service's (DAS)' receipt or acceptance of any of the reports furnished pursuant to this Requirements Price Agreement, or any sums paid hereunder, shall not preclude DAS from challenging the validity thereof at any time.

F.10.6. DAS RESERVES THE RIGHT TO CANCEL THIS REQUIREMENTS PRICE AGREEMENT IF VOLUME SALES REPORTS ARE NOT RECEIVED AS SCHEDULED.

F.10.7. PAYMENT OF VCAF. Upon receipt of the invoice from DAS Purchasing, Contractor shall remit payment to DAS Purchasing for the amount indicated on the invoice. Contractor shall contact the Contract Administrator as identified in the Requirements Price Agreement if no invoice is received within thirty (30) days after sending the VSR to DAS Purchasing. Failure to send VSR does not release Contractor from requirement to remit required VCAF.

F.10.7.1. The fee shall be in the form of a check remitted to:

Department of Administrative Services/TPPS  
Attn: State Procurement Office  
1225 Ferry Street SE, U140  
Salem, Oregon 97301-4285



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F.10.7.2. If the total VCAF to be paid for the quarter does not exceed \$ 100.00, Contractor shall not be required to submit the affected Administrative Fee and shall add such fee to the amount owed for the next succeeding quarter. These Administrative Fees shall not be subject to interest accrual as explained in F.10.8.

F.10.8. INTEREST: Any payments Contractor makes or causes to be made to DAS Purchasing after the due date as indicated on invoice, shall accrue interest at a rate of 18% per annum or the maximum rate permitted by law, whichever is less, until such overdue amount shall have been paid in full. DAS'S right to interest on late payments under F.10. shall not preclude DAS from exercising any of its other rights or remedies pursuant to this Requirements Price Agreement or otherwise with regards to Contractor's failure to make timely remittances.

F.10.9 COMPLIANCE AUDITS. Each Contractor will be monitored by DAS for compliance throughout the term of the Price Agreement(s) through the reports required under Section F.10. Additionally, DAS reserves the right to audit each Contractor's Price Agreement(s) and Contract files.

F.10.9.1 In the event that any such audit reveals underpayment of Administrative Fees, the affected Contractor shall forthwith pay the amount of deficiency, together with interest thereon at the rate provided in Section F.10.2. At DAS request, the affected Contractor shall pay the reasonable costs of an audit if such audit shows an underpayment exceeding TEN PERCENT (10%) of the Administrative Fees due during the Administrative Periods audited.

F.10.10. THE STATE RESERVES THE RIGHT TO TERMINATE ANY PRICE AGREEMENT(S) AWARDED IF REPORTS ARE NOT RECEIVED AS SCHEDULED.

F.11 LIMITATION OF LIABILITY: Contractor acknowledges and agrees that the State shall bear no liability on Contracts entered into for purchases by non-State Agencies, which liability the State expressly disclaims. With regard to non-State Agencies, Contractor agrees to look solely to the respective contracting party for any rights and remedies Contractor may have at law or in equity arising out of the sale and purchase of Contractor's Goods and/or Services and the resulting contractual relationship, if any, with each such contracting party.

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F.12 INDEMNIFICATION: Contractor shall defend, save, hold harmless, and indemnify the State, its agencies, departments, divisions, and their officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever (collectively, "Claim") resulting from, arising out of, or relating to the Price Agreement and Contracts, including but not limited to (1) the activities of Contractor or its officers, employees, subcontractors, or agents, (2) the Goods sold, and (3) the Services provided.

F.12.1 Provided, however the Oregon Attorney General must give written authorization to any legal counsel purporting to act in the name of, or represent the interests of, the State and/or its officers, employees and agents prior to such action or representation. Further, the State, acting by and through its Department of Justice, may assume its own defense, including that of its officers, employees and agents, at any time when in the State's sole discretion it determines that (i) proposed counsel is prohibited from the particular representation contemplated; (ii) counsel is not adequately defending the interests of the State and/or its officers, employees and agents; (iii) important governmental interests are at stake; or (iv) the best interests of the State are served thereby. Contractor's obligation to pay for all costs and expenses shall include those incurred by the State in assuming its own defense and/or that of officers, employees, and agents under (i) and (ii) above.

F.13 EVENTS OF DEFAULT:

F.13.1 CONTRACTOR. Contractor shall be in default under the Price Agreement if:

F.13.1.1 Contractor breaches any Price Agreement or Contract covenant, warranty, certification, or obligation;

F.13.1.2 Contractor institutes an action for relief in bankruptcy or has instituted against it an action for insolvency; makes a general assignment for the benefit of creditors; or ceases doing business on a regular basis of the type identified in Contractor's obligations under the Price Agreement and Contracts entered into thereunder; or

F.13.1.3 Contractor attempts to assign rights in, or delegate duties under, the Price Agreement or any Contract entered into thereunder, without DAS' prior written consent?

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F.13.2 STATE. The State shall be in default under the Price Agreement if the State fails to make timely payment under any Contract for its purchase(s).

F.14 TERMINATION:

F.14.1 MUTUAL CONSENT. The Price Agreement may be terminated at any time by mutual written consent of the parties.

F.14.2 STATE.

F.14.2.1 DAS may, at its sole discretion, terminate the Price Agreement, in whole or in part, for convenience.

F.14.2.2 DAS shall be excused from performance and may terminate the Price Agreement, in whole or in part, immediately upon notice to Contractor, or at such later date as DAS may establish in such notice, upon the occurrence of any of the following events: (i) federal or State laws, regulations, or guidelines are modified or interpreted in such a way that the purchase by Authorized Purchasers of Goods offered under the Price Agreement is prohibited, or (ii) Contractor is in default of a material provision of the Price Agreement or any Contract entered into thereunder. Pursuant to this Section F.14.2.2, upon receipt of written notice of termination, Contractor shall stop performance under the Price Agreement as directed by DAS.

F.15 REMEDIES: State shall be entitled to recover any and all damages it may suffer as the result of Contractor's material breach of the Price Agreement, including but not limited to direct, indirect, incidental, and consequential damages, and any equitable remedies to which it may show itself entitled. Contractor's remedy shall be restricted to reinstatement of the Price Agreement if wrongfully terminated by DAS. However, with the exception of defense costs and expenses pursuant to F.12, neither party shall be entitled to recover attorney's fees, court and investigative costs, or any other fees or expenses associated with pursuing a remedy for damages arising out of or relating to the Price Agreement.

F.16 NOTICES: All notices required to be given by Contractor under the Price Agreement shall be in writing and addressed to the DAS point of contact identified in the ITB. All notices required to be given by the State shall be in writing, addressed to the Contractor's representative, and sent to the address specified in the Bid. Mailed notices shall be deemed given five (5) calendar days after post marked, when deposited, properly addressed and prepaid, into the U.S. postal service. Faxed notices shall be deemed given upon electronic confirmation of successful transmission to the designated fax number.

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F.17 ACCESS TO RECORDS: Contractor shall maintain all fiscal records relating to the Price Agreement in accordance with generally-accepted accounting principles, and shall maintain all other records relevant to Contractor's performance of the Price Agreement (collectively, "Records"). The State and its duly authorized representatives shall have access to Records for purposes of examination and copying. Contractor shall retain and keep accessible all Records for a minimum of 3 years, or such longer period as may be required by applicable law following expiration or termination of the Price Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to the Price Agreement, whichever date is later.

F.18 SEVERABILITY: If any provision of the Price Agreement is declared by a court of competent jurisdiction to be illegal or otherwise invalid, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Price Agreement did not contain the particular provision held to be invalid.

F.19 SURVIVAL: Termination of the Price Agreement shall not extinguish or prejudice the State's right to enforce the warranty, access to records, indemnification, governing law, venue, consent to jurisdiction, and remedies provisions.

F.20 ASSIGNMENT/SUBCONTRACT/SUCCESSORS: Contractor shall not assign, sell, transfer, or subcontract rights or delegate responsibilities under the Price Agreement, in whole or in part, without the prior written approval of DAS. Further, no such written approval shall relieve Contractor of any obligations under the Price Agreement, and any assignee or delegate shall be considered the agent of Contractor. The provisions of the Price Agreement shall be binding upon and shall inure to the benefit of the parties to the Price Agreement and their respective successors and permitted assigns.

F.21 GOVERNING LAW: The Price Agreement shall be governed by and construed in accordance with the internal laws of the State of Oregon without regard to principles of conflicts of law.

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F.22 VENUE; CONSENT TO JURISDICTION: Any claim, action, suit or proceeding (collectively, "Claim") between the State and Contractor that arises from or relates to the Price Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then unless otherwise prohibited by law it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. CONTRACTOR, BY SUBMITTAL OF ITS SIGNED BID, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Nothing herein shall be construed as a waiver of the State's sovereign or governmental immunity, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or of any defenses to claims or jurisdiction based thereon.

F.23 MERGER CLAUSE; AMENDMENT; WAIVER: The Price Agreement constitutes the entire agreement between the Contractor and the State on the subject matter thereof. There are no understandings, agreements, or representations, oral or written, not specified therein regarding the Price Agreement. No waiver, consent, or amendment of terms of the Price Agreement shall be binding either party to: (a) the Price Agreement or (b) Contracts entered into thereunder, unless such is in writing, is signed by both parties to the Price Agreement, and all necessary approvals have been obtained. Waivers and consents shall be effective only in the specific instance and for the specific purpose given. The failure of DAS to enforce any provision of the Price Agreement shall not constitute a waiver by the State of that or any other provision.

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SECTION G - STANDARD CONTRACT TERMS AND CONDITIONS

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G.1 ORDER OF PRECEDENCE: The printed Terms and Conditions set out in this Section G are the Standard Terms and Conditions for State of Oregon contracts. The State may also provide Special Terms and Conditions in Section H, which apply only to Contract(s) entered into under the Price Agreement. Whenever possible, all terms and conditions are to be harmonized. In the event of a conflict between the Standard and Special Terms and Conditions, the Special Terms and Conditions take precedence, unless the Standard term in question is required by law. In the event of any other conflict, the Contract shall be interpreted utilizing the following order of precedence: (i) the Special Terms and Conditions, (ii) these Standard Terms and Conditions, (iii) the Specifications, (iv) the remaining portions of the Invitation to Bid, (v) the Bid, and (vi) the Purchase Order.

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**G.2 PURCHASE ORDERS:**

**G.2.1 DAS; PURCHASING AGENCIES:** Purchase Orders shall incorporate the Price Agreement by reference, and identify the Price Agreement number, the ITB number, and the Bid Item number(s) of the Unit(s) and options ordered. However, no language in a Purchase Order shall vary, amend, modify, or add terms or conditions to the Price Agreement. Operative provisions in Purchase Orders shall be limited to: designation of Authorized Purchaser and its authorized representative; identification of Goods and order quantities; optional Services, equipment and accessories offered under the terms of the Price Agreement; delivery schedules in accordance with the terms of the Price Agreement; and Delivery Destination and invoicing addresses.

**G.2.2 ORCPP:** The Mandatory Purchase Authorization Language set out in Section G.2.3 shall be required on the front page of each Purchase Order submitted to Contractor by an ORCPP Participant for Goods and/or services ordered under the Price Agreement.

**G.2.3 ORCPP MANDATORY PURCHASE ORDER LANGUAGE:**

THIS PURCHASE IS PLACED AGAINST STATE OF OREGON SOLICITATION # 10200063-02 AND PRICE AGREEMENT # -ORDERING ORGANIZATION WILL INSERT PRICE AGREEMENT #. THE CONTRACT TERMS AND CONDITIONS AND SPECIAL CONTRACT TERMS AND CONDITIONS (T'S & C'S) CONTAINED IN THE PRICE AGREEMENT ARE HEREBY INCORPORATED BY REFERENCE AND SHALL APPLY TO THIS PURCHASE AND SHALL TAKE PRECEDENCE OVER ALL OTHER CONFLICTING T'S AND C'S, EXPRESS OR IMPLIED.

**G.2.4** In the event a court of competent jurisdiction determines that the Purchase Order constitutes an offer rather than an acceptance, then acceptance by Contractor shall be limited to the terms of the Contract as stipulated in the ITB.

**G.3 DELIVERY DESTINATION:** Goods, including all Delivery Components and options and attachments, if any, shall be delivered F.O.B. destination to the address or location specified in the Purchase Order ("Delivery Destination"), together with all Delivery Components, warranty documentation, inspection reports, and certifications, where applicable. Provided, however, Contractor may charge Authorized Purchaser a delivery charge in accordance with the provisions of D.2.3A.

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G.4 PAYMENT; OVERDUE ACCOUNT CHARGES: Payment shall be due and owing no later than thirty (30) calendar days from date of acceptance or expiration of inspection period, whichever occurs first. (Payment alone, however, shall not constitute acceptance.) Contractor may only assess overdue account charges, in accordance with the provisions of ORS 293.461(3), up to a maximum rate of two-thirds of one percent per month (8% per annum).

G.5 PAYMENT ADDRESS: Payment shall be sent to Contractor at the address specified in the invoice.

G.6 INVOICES: Each invoice shall include the applicable Purchase Order number, vehicle ID number of the Unit and that of all optional attachments, if any. Contractor shall invoice Authorized Purchaser upon delivery of entire order.

G.7 MOST FAVORABLE PRICES AND TERMS: Contractor represents that all prices, terms and benefits offered by Contractor are equal to or better than the equivalent prices, terms and benefits being offered by Contractor to any other state or local government unit or commercial customer.

G.7.1 Should Contractor, during the term of the Contract, enter into any contract, agreement or arrangement that provides lower prices, more favorable terms or greater benefits to any other such government unit or commercial customer, the Contract shall thereupon be deemed amended to provide the same price or prices, terms and benefits to the Authorized Purchaser. This provision applies to comparable Goods and Services, and to purchase volumes by the Authorized Purchaser that are not less than the purchase volumes of the government unit or commercial customer that has received the lower prices, greater benefits or more favorable terms.

G.7.2 Donations of Goods or Services to charitable, nonprofit or government entities, if the donations are recognized as such and are deductible under the federal Internal Revenue Code, shall not be considered contracts, agreements, sales or arrangements with other government units or commercial customers that call for the application of this paragraph.

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**G.8 INSPECTIONS/ACCEPTANCE:** The Authorized Purchaser shall have fourteen (14) calendar days from date of delivery of the Goods within which to inspect and accept or reject them. If the Goods are rejected, Authorized Purchaser shall provide Contractor with written notification of rejection. Notice of rejection shall include itemization of apparent defects, including but not limited to (i) discrepancies between the Goods and the applicable specifications or warranties; (ii) other apparent defects in design, materials, or manufacture; and/or (iii) otherwise nonconforming Goods (including late delivery). Notice of rejection shall also indicate whether cure will be allowed.

**G.8.1 CURE:** The Authorized Purchaser may elect to have the Contractor deliver substitute Goods that comply with the Contract specifications and warranties, or have the Goods repaired, at Authorized Purchaser's option. The Contractor shall either deliver substitute conforming Goods or make all corrections reasonably deemed necessary by the Authorized Purchaser within ten (10) calendar days of receipt of notice of rejection and opportunity to cure. Failure to complete cure within the ten (10)-calendar-day period shall constitute default.

**G.8.2 REMOVAL/REIMBURSEMENT:** If the Goods are rejected or acceptance is revoked, the Contractor shall refund any Contract payments that have been made with regard to the rejected Goods, and shall (at Contractor's sole cost and expense) remove the Goods within seven (7) calendar days of receiving notice of rejection or revocation of acceptance. Nothing contained in this Section G.8 shall preclude the Authorized Purchaser from other remedies to which it may be entitled upon rejection or revocation of acceptance.

**G.9. WARRANTIES:**

**G.9.1. AUTHORITY; BINDING OBLIGATION:** Contractor represents and warrants that Contractor has the power and authority to enter into and perform the Contract and that the Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms.

**G.9.2. WARRANTY ON MATERIALS, DESIGN, MANUFACTURE:** Contractor warrants that all Goods shall be new, unused, current production models. Where specifications have been made a part of the ITB, Contractor further warrants that all Goods shall be in compliance with and meet or exceed all specifications. Manufacturer's warranty against defects in materials, design and manufacture shall extend for not less than three (3) years or thirty-six thousand miles bumper to bumper.



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G.9.3. WARRANTY ON SERVICE STANDARDS: Contractor warrants that all services, where provided, shall be performed in a good and workmanlike manner by properly certified, licensed, rsonnel, and in professional and/or industry standards.

G.9.4 WARRANTY OF SAFETY AND HEALTH REQUIREMENTS: Contractor warrants that the Goods comply with all applicable federal and State health and safety standards, including but not limited to,  
Occupational Safety and Health Administration (OSHA)  
Occupational Safety and Health Administration (OROSHA).

G.9.5 MANUFACTURER WARRANTIES: Contractor shall have all manufacturer warranties covering the Goods and component parts, where applicable, transferred to the Authorized Purchaser (or the State, if Authorized Purchaser is a State Agency) at time of delivery at no charge.

G.9.6 WARRANTY OF TITLE. Contractor warrants that all Goods are free and clear of any liens or encumbrances, and that Contractor has full legal title to the Goods, and that no other person has any right, title or interest in the Goods which shall be superior to or infringe upon the rights granted to Authorized Purchaser (or the State if Authorized Purchaser is a State Agency).

G.9.7 WARRANTIES CUMULATIVE: The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided in the Contract. All warranties provided in the Contract shall be cumulative, and shall be interpreted expansively so as to afford the Authorized Purchaser (or the State, if Authorized Purchaser is a State Agency) the broadest warranty protection available.

G.10 COMPLIANCE WITH APPLICABLE LAWS AND STANDARDS:

G.10.1 Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Contract. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Contract: (i) Titles VI and VII of Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) The Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vi)

G.10.1 (CONTINUED) The Vietnam Era Veterans' Readjustment Assistance

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Act of 1974, as amended; (vii) ORS Chapter 659, as amended; (viii) all regulations and administrative rules established pursuant to the foregoing laws; and (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. The laws, regulations, and executive orders applicable to the Contract are incorporated by reference where so required by law. For public Contracts as defined in ORS 279.310 (1), Authorized Purchaser's performance is conditioned upon Contractor's compliance with ORS 279.312, 279.314, 279.316, and 279.320, the terms of which are incorporated by reference into such Contracts.

G.10.2 In the event of a conflict between the Specifications and applicable federal or State laws, the federal or state laws shall prevail. Provided, however, in the event any conflict is based solely upon minimum standards, such as quality or safety, the higher or more stringent standard shall apply. Contractor shall be responsible for making any modifications required to achieve compliance with the required laws and standards. Contractor shall notify the Authorized Purchaser of any such required modifications upon receipt of knowledge or notification of such.

G.10.3 In the event any Good or component part is recalled by a regulatory body or the manufacturer, or discovered by Contractor not to be in compliance with the applicable standards, Contractor shall immediately notify the Authorized Purchaser at the address specified in the Authorized Purchaser's Purchase Order of the recall or non-compliance, and shall provide copies of the notice or other documentation. The Authorized Purchaser may elect to cancel any order and terminate the Contract in whole or in part, based upon such recall or non-compliance, or may require Contractor to promptly provide substitute Goods or complete necessary modifications, where applicable.

G.10.4 Contractor shall be responsible for promptly removing recalled or non-compliant Goods and for making any required substitutions or modifications, including shipping, handling, parts, labor, and travel, and all other expenses, at no cost to the Authorized Purchaser.

G.10.5 Notwithstanding the foregoing G.10.3 and G.10.4, in the

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event required modifications impair the utility of a Unit for its intended purpose or level of function in the reasonable opinion of Authorized Purchaser, Authorized Purchaser may elect to cancel any order and/or terminate the Contract in whole or in part, at no cost or penalty. Contractor shall be responsible for removing the non-compliant Goods, wherever located, at no cost to the Authorized Purchaser, and for reimbursing Authorized Purchaser all amounts paid, less the value of the use of such non-compliant Goods while in Authorized Purchaser's possession. As used in this Section, "cost" includes labor, transportation and shipping costs, insurance, travel, meals, accommodations, etc.

**G.11 FOREIGN CONTRACTOR:** If the amount of a Contract with an Oregon Authorized Purchaser exceeds \$10,000 and if Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue all information required by that Department relative to the Contract. The Oregon Authorized Purchaser shall be entitled to withhold final payment under the Contract until Contractor has met this requirement.

**G.12 MATERIAL SAFETY DATA SHEET:** Contractor shall provide the Authorized Purchaser with a Material Safety Data Sheet as defined by the Occupational Safety and Health Administration (OSHA) for any Goods provided under the Contract which may release or otherwise result in exposure to a hazardous chemical under normal conditions of use. In addition, Contractor must label, tag or mark such Goods.

**G.13 RECYCLED PRODUCTS:** Contractor shall use recycled and recyclable products to the maximum extent economically feasible in the performance of the Contract if Authorized Purchaser is subject to ORS 279.555. These products shall include recycled paper, recycled PETE products, as defined in ORS 279.545(5), and other recycled plastic resin products. Contractor shall specify the minimum percentage of recycled product incorporated into the Goods provided under the Contract.

**G.14 TIME IS OF THE ESSENCE:** Contractor agrees that time is of the essence for Contractor's performance obligations under the Contract.

**G.15 FORCE MAJEURE:** Neither Authorized Purchaser nor Contractor

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shall be held responsible for delay or default caused by fire, riot, acts of God, war, or any other cause which is beyond the party's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under the Contract. The Authorized Purchaser may terminate the Contract upon written notice after reasonably determining that such delay or default will likely prevent successful performance of the Contract.

G.16 STATE AGENCIES ONLY: FUNDS AVAILABLE AND AUTHORIZED; PAYMENTS:

G.16.1 If Authorized Purchaser is a State Agency, the following applies: Authorized Purchaser has sufficient funds available and authorized within its biennial appropriation or limitation to finance the cost of purchases under the Contract prior to the end of the current biennium. Contractor understands and agrees that Authorized Purchaser's payment of amounts under the Contract attributable to purchases made after the last day of the current biennium is contingent on Authorized Purchaser's receiving from the Oregon Legislative Assembly appropriations, limitations, or other expenditure authority sufficient to allow Authorized Purchaser, in the exercise of its reasonable administrative discretion, to continue to make payments under the Contract.

G.16.2 Agency will only pay for completed goods and services that are accepted by Agency.

G.17 TERMINATION:

G.17.1 MUTUAL CONSENT: The Contract may be terminated at any time by mutual written consent of the parties.

G.17.2 AUTHORIZED PURCHASER:

G.17.2(a) If Authorized Purchaser is a State Agency, it may in its sole discretion, at any time terminate the Contract, in whole or in part, for convenience.

G.17.2(b) Authorized Purchaser is excused from performance and may terminate the Contract, in whole or in part, immediately upon notice to Contractor, or at such later date as Authorized Purchaser may establish in such notice, upon the occurrence of any of the following events:

G.17(b) (CONTINUED) (i) Authorized Purchaser fails to receive

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funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for the Goods to be purchased and/or the services to be provided under the Contract; or (ii) federal or state laws, regulations, or guidelines are modified or interpreted in such a way that either the purchase of Goods and/or services by Authorized Purchaser under the Contract is prohibited, or the Authorized Purchaser is prohibited from paying for such Goods and/or services from the planned funding source; or (iii) Contractor breaches any material provision of the Contract. Pursuant to this section, upon receipt of written notice of termination, Contractor shall stop performance under the Contract as directed by the Authorized Purchaser.

G.17.3 CONTRACTOR: Contractor may terminate the Contract immediately upon notice to Authorized Purchaser, or at such later date as it may establish in such notice, upon material breach of the Contract by Authorized Purchaser.

G.18 INDEMNIFICATION:

G.18.1 Contractor shall defend, save, hold harmless, and indemnify the Authorized Purchaser (or the State if Authorized Purchaser is a State Agency) and its officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, and costs and expenses of any nature whatsoever (collectively, "Claim") resulting from, arising out of, or relating to (i) the activities of Contractor or its officers, employees, subcontractors, or agents, (ii) the Goods sold, and (iii) the Services provided pursuant to the Contract.

G.18.2 Provided, however, that with regard to State Agencies the Oregon Attorney General must give written authorization to any legal counsel purporting to act in the name of, or represent the interests of, the State and/or its officers, employees and agents prior to such action or representation. Further, the State, acting by and through its Department of Justice, may assume its own defense, including that of its officers, employees and agents, at any time when in the State's sole discretion it determines that (i) proposed counsel is prohibited from the particular representation contemplated; (ii) counsel is not adequately defending the interests of the State and/or its officers, employees and agents; (iii) important governmental interests are at stake; or (iv) the best interests of the State are served thereby. Contractor's obligation to pay for all costs and expenses shall include those incurred by the State in assuming its own defense and/or that of its officers, employees, and agents under (i) and (ii) above.

G.19 REMEDIES:

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G.19.1 AUTHORIZED PURCHASER: In addition to the remedies afforded elsewhere herein, Authorized Purchaser (or the State, if Authorized Purchaser is a State Agency) shall be entitled to recover for any and all damages suffered as the result of Contractor's breach of Contract, including but not limited to direct, indirect, incidental and consequential damages, as provided in ORS 72.7110 to 72.7170. Authorized Purchaser (or the State, if Authorized Purchaser is a State Agency) shall also be entitled to any equitable remedies to which it may show itself entitled.

G.19.2 CONTRACTOR: Contractor's remedy shall be restricted to recovery of actual damages incurred as the result of material breach of the Contract by Authorized Purchaser.

G.19.3 ATTORNEYS' FEES: With the exception of defense costs and expenses pursuant to G.18, neither party shall be entitled to recover attorney's fees, court and investigative costs, or any other fees or expenses associated with pursuing a remedy for damages arising out of or relating to the Contract.

G.20 TRADE SECRETS: Contractor shall label the information and documentation qualifying as trade secrets under ORS 293.501(2) that it wishes to protect from disclosure to third parties with the following: "This data constitutes a trade secret under ORS 192.501(2) and is not to be disclosed except as required by law." Authorized Purchaser will take reasonable measures to hold in confidence all such labeled information and documentation. Provided, however, Authorized Purchaser shall not be liable for release of any information when authorized or required by law or court order to do so, whether pursuant to Oregon Public Records Law or otherwise. Further, if Authorized Purchaser is a State Agency, it shall also be immune from liability for disclosure or release of information under the circumstances set out in ORS 646.473(3).

G.21 ACCESS TO RECORDS: Contractor shall maintain all fiscal records relating to the Contract in accordance with generally-accepted accounting principles, and shall maintain all other records relevant to Contractor's performance of the Contract (collectively, "Records"). Authorized Purchaser and its duly authorized representatives shall have access to Records for purposes of examination and copying. Contractor shall retain and keep accessible all Records for a minimum of 3 years, or such longer period as may be required by applicable law following expiration or termination of the Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to the Contract, whichever date is later.

G.22 NOTICES: All notices required under the Contract shall be in

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writing and addressed to the party's authorized representative. For Authorized Purchasers, the authorized representative shall be identified in the Purchase Order. Contractor's authorized representative shall be the individual specified in the Bid. Mailed notices shall be deemed given five (5) business days after post marked, when deposited, properly addressed and prepaid, into the U.S. postal service. Faxed notices shall be deemed given upon electronic confirmation of successful transmission to the designated fax number.

G.23 GOVERNING LAW: The Contract shall be governed by and construed in accordance with the internal laws of the State of Oregon without regard to principles of conflicts of law. With regard to Goods, the UCC shall govern this transaction, as modified, if so, by the terms of the Contract.

G.24 VENUE; CONSENT TO JURISDICTION:

G.24.1 STATE CONTRACT VENUE; CONSENT TO JURISDICTION: Any claim, action, suit or proceeding (collectively, "Claim") between a State Agency and Contractor that arises from or relates to the Contract shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then unless otherwise prohibited by law it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. CONTRACTOR HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Nothing herein shall be construed as a waiver of the State's sovereign or governmental immunity, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or of any defenses to Claims or jurisdiction based thereon.

G.24.2 ORCPP CONTRACT VENUE; CONSENT TO JURISDICTION: Any Claims between Contractor and an ORCPP Authorized Purchaser that arise from or relate to the Contract shall be brought and conducted solely and exclusively within the Circuit Court of the county in which such Authorized Purchaser resides, or at Authorized Purchaser's option, within such other county as Authorized Purchaser shall be entitled under the laws of the relevant jurisdiction to bring or defend Claims. If any such Claim must be brought in a federal forum, then unless otherwise prohibited by law it shall be brought and conducted solely and exclusively within the United States District Court for the District in which such Authorized Participant resides. CONTRACTOR HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

G.24.2 (CONTINUED) Nothing herein shall be construed as a waiver of

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Authorized Purchaser's sovereign or governmental immunity, if any, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or of any defenses to Claims or jurisdiction based thereon.

G.25 SURVIVAL: Termination of the Contract shall not extinguish or prejudice Authorized Purchaser's (or the State's, if Authorized Purchaser is a State Agency) right to enforce the warranty, indemnification, access to records, governing law, venue, consent to jurisdiction, and remedies provisions.

G.26 SEVERABILITY: If any provision of the Contract is declared by a court of competent jurisdiction to be illegal or otherwise invalid, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

G.27 ASSIGNMENT/SUBCONTRACT/SUCCESSORS: Contractor shall not assign, sell, transfer, or subcontract rights or delegate responsibilities under the Contract, in whole or in part, without the prior written approval of Authorized Purchaser (or DAS, if Authorized Purchaser is subject to DAS purchasing authority). Further, no such written approval shall relieve Contractor of any obligations under the Contract, and any delegate shall be considered the agent of Contractor. The provisions of the Contract shall be binding upon and shall inure to the benefit of the parties to the Contract and their respective successors and permitted assigns.

G.28 MERGER CLAUSE; AMENDMENT; WAIVER: The Contract constitutes the entire agreement between the parties on the subject matter thereof. There are no understandings, agreements, or representations, oral or written, not specified therein regarding the Contract. No waiver, consent, or amendment of terms of the Contract shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained (including that of DAS if Authorized Purchaser is subject to DAS purchasing authority). Waivers and consents shall be effective only in the specific instance and for the specific purpose given. The failure of the Authorized Purchaser to enforce any provision of the Contract shall not constitute a waiver by the Authorized Purchaser of that or any other provision.

G.29 INSURANCE: Contractor shall obtain prior to performing any work under the Contract, and maintain during the term of the Contract (including all warranty periods) the insurance required under Section 1.

With regard to workers' compensation insurance, all employers,



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including Contractor, that employ subject workers who work under the Contract in the State of Oregon shall comply with ORS 656.017 and provide the required workers' compensation coverage, unless such employers are exempt under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements.

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SECTION H - SPECIAL CONTRACT TERMS AND CONDITIONS

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H.1 Upon request by Authorized Purchaser, Contractor shall provide color chips for all Standard and optional exterior colors.

H.2 PLACEMENT OF ORDERS:

H.2.1 Contractor shall have ten (10) business days from receipt of Purchase Order containing all required information to process order to manufacturer and verify processing of order with the Authorized Purchaser.

H.2.2 Contractor shall provide within four (4) business days of receipt from manufacturer a copy of the build order verification to the Authorized Purchaser. Repeated neglect of not providing this verification to the Authorized Purchaser may be grounds for default and the Contract may be canceled

H.2.3 Authorized Purchaser will be responsible for verifying accuracy of the order and notifying the Contractor of errors, if any, within five (5) business days of receiving the build order verification from the Contractor.

H.2.4 Contractor shall notify Authorized Purchaser of build date and proposed delivery time, and any changes to such upon receipt of notice from manufacturer.

H.3 DELIVERY DESTINATION: The Delivery Destination address shall be specified in the Purchase Order.

H.4 FUEL: Each vehicle shall be delivered or held ready for pick up with no less than a quarter tank of fuel.

H.5 BACK ORDER: Delivery charges for back orders shall be paid by Contractor.

H.6 ADDITIONAL REMEDIES FOR NON-CONFORMING GOODS:

H.6.1 If the Contractor can no longer obtain a substitute conforming

STATE OF OREGON  
DEPARTMENT OF ADMINISTRATIVE SERVICES  
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vehicle, then Contractor, upon the consent of the Authorized Purchaser, shall provide a substitute vehicle with substantially equivalent equipment, all at the Contract price.

H.6.2 If a vehicle with substantially equivalent equipment cannot be supplied, then Contractor shall provide the next year's model with the original equipment ordered, all at the Contract price.

H.7 MANUFACTURER CANCELLATION OF ORDER: Contractor shall not be liable when, through no fault of the Contractor, the manufacturer is not able to build an ordered vehicle or the manufacturer cancels the order for a vehicle.

H.8 PRE-DELIVERY INSPECTION: The Authorized Purchaser can request to have a pre-delivery inspection at Contractor's location to insure specification compliance PRIOR TO DELIVERY.

H.8.1 If a missing part, component, or accessory cannot be provided and installed within fourteen (14) calendar days, the Authorized Purchaser shall have the right to buy the item or part from another source and bill the Contractor or deduct the cost from the Contractor's invoice for the vehicle, including costs of installation.

H.9 LIQUIDATED DAMAGES: Contractors are required to place orders with the manufacturer within ten (10) business days after receipt of Purchase Order.

H.9.1 The Authorized Purchaser may assess Liquidated damages of TEN DOLLARS (\$10.00) for delay for each calendar day, per each unit, for which the Contractor is over the ten (10) days order deadline in placing the order with the manufacturer.

H.10. Disclosure of Social Security Number. Contractor must provide Contractor's Social Security number unless Contractor provides a federal tax ID number. This number is requested pursuant to ORS 305.385, OAR 125-20-410(3) and OAR 150-305.100. Social Security numbers provided pursuant to this authority will be used for the administration of state, federal and local tax laws.

H.11 CONTRACTOR'S SOLE REMEDY

STATE OF OREGON  
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For its sole remedy, after exhausting any provisions for 'cover' under Oregon's UCC (ORS Chapters 71 & 72), contractor lessor/renter/seller is limited to the difference between market price and contract price at the time and place for tender, less expenses saved, without incidental damages. For the avoidance of doubt, contractor specifically disclaims and otherwise waives any right or privilege to recover consequential, exemplary, incidental, nominal, special, or other statutory damages, and specifically shall not recover damages for lost opportunity or profits, or pursue any remedy in equity, by specific performance or otherwise.

AGENDA ITEM # 3.3  
FOR AGENDA OF November 23, 2004

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Intergovernmental Agreement for Towing Services

PREPARED BY: Chief Dickinson DEPT HEAD OK lump CITY MGR OK ECM for WDM

ISSUE BEFORE THE COUNCIL

A request to have the Mayor sign three copies of the Intergovernmental Agreement (IGA) for Towing Services between Tigard and Washington County.

STAFF RECOMMENDATION

Staff recommends signing the IGA.

INFORMATION SUMMARY

Since 12/12/02, the City of Tigard Police Department has had a towing agreement with Washington County which sets standards and regulates the participating tow companies. The IGA addresses issues of timely response, rates, and equipment requirements. It provides for a Tow Coordinator to administer the Towing Procedures Manual and maintain standards. The IGA requires the Mayor's signature.

OTHER ALTERNATIVES CONSIDERED

None.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

This does not address a specific goal or strategy.

ATTACHMENT LIST

Attachments: Three (3) copies of the contract.

FISCAL NOTES

There is no cost associated with participation in the IGA.

## INTERGOVERNMENTAL AGREEMENT FOR TOWING COORDINATION SERVICES

This Agreement is entered into, by and between Washington County, a political subdivision of the State of Oregon, and Tigard Police Department

WHEREAS ORS 190.010 authorizes the parties to enter into this Agreement for the performance of any or all functions and activities that a party to the Agreement has authority to perform.

Now, therefore, the parties agree as follows:

- 1) The effective date is: January 1, 2005, or upon final signature, whichever is later.  
  
The expiration date is: December 31, 2006; unless otherwise amended.
- 2) The parties agree to the terms and conditions set forth in Attachment A, which is incorporated herein, and describes the responsibilities of the parties, including compensation, if any.
- 3) Each party shall comply with all applicable federal, state and local laws; and rules and regulations on non-discrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition or handicap.
- 4) To the extent applicable, the provisions of ORS 279.312, 279.313, 279.314, 279.316, 279.320 and 279.334 are incorporated by this reference as though fully set forth.
- 5) Each party is an independent contractor with regard to each other party(s) and agrees that the performing party has no control over the work and the manner in which it is performed. No party is an officer, agent or employee of any other.
- 6) No party or its employees is entitled to participate in a pension plan, insurance, bonus, or similar benefits provided by any other party.
- 7) This Agreement may be terminated, with or without cause and at any time, by a party by providing 30 days written notice of intent to the other party(s).
- 8) Modifications to this Agreement are valid only if made in writing and signed by all parties.
- 9) Subject to the limitations of liability for public bodies set forth in the Oregon Tort Claims Act, ORS 30.260 to 30.300, and the Oregon Constitution, each party agrees to hold harmless, defend, and indemnify each other, including its officers, agents, and employees, against all claims, demands, actions and suits (including all attorney fees and costs) arising from the indemnitor's performance of this Agreement where the loss or claim is attributable to the negligent acts or omissions of that party. City specifically agrees, subject to the limits of the Tort Claims Act and the Oregon Constitution, to indemnify and defend County for any claim, demand, action or suit arising from any City policy, practice, procedure or custom, and any claim, demand, action or suit which alleges that a tow ordered by a City officer was improper or without authority.

- 10) Each party shall give the other immediate written notice of any action or suit filed or any claim made against that party that may result in litigation in any way related to this Agreement.
- 11) Each party agrees to maintain insurance levels or self-insurance in accordance with ORS 30.282, for the duration of this Agreement at levels necessary to protect against public body liability as specified in ORS 30.270.
- 12) Each party agrees to comply with all local, state and federal ordinances, statutes, laws and regulations that are applicable to the services provided under this Agreement.
- 13) This Agreement is expressly subject to the debt limitation of Oregon Counties set forth in Article XI, Section 10 of the Oregon Constitution, and is contingent upon funds being appropriated therefore.
- 14) This writing is intended both as the final expression of the Agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement.

WHEREAS, all the aforementioned is hereby agreed upon by the parties and executed by the duly authorized signatures below.

\_\_\_\_\_  
Jurisdiction

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

Address: \_\_\_\_\_

**WASHINGTON COUNTY:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

Address:

Mail Stop #  
Hillsboro, OR

## ATTACHMENT A

### Statement of Work/Schedule/Payment Terms

Washington County agrees to provide Tow Coordination Services to Tigard Police Department (hereinafter Contract Agency) for the duration of this contract. These services shall consist of:

- 1) Providing a Tow Coordinator to oversee contracts with tow firms and administer the Towing Procedures Manual, including enforcement of suspension and termination provisions.
- 2) Conducting background checks on all tow drivers and related tow employees as required by the Towing Procedures Manual.
- 3) Complaint handling from citizens and other agencies
- 4) Conducting tow lot inspections and inspections of towing equipment
- 5) Define tow areas and administer rotational tow lists with contracted dispatcher.
- 6) Maintain and administer contract with contracted dispatcher.
- 7) Providing periodic reports to contract agencies regarding number of tows, average response times and other information as agreed.

In consideration of Washington County providing the above services, City agrees to notify Washington County of any tow issues or complaints arising from a non-consensual law enforcement tow, and to fully cooperate with County in investigating these complaints. City also agrees to utilize towing policies and procedures which are compatible with the Towing Procedures Manual and do not conflict with the provisions of the Manual or the contract between Washington County and contract tow firms.

These services do not include, and City shall remain solely responsible for the following:

- 1) Conducting hearings under ORS 809.716 or other statutes on impoundment of vehicles towed by City officers, and paying for any tows by City officers which are found to be improper.
- 2) Providing any required notice of impoundment or towing, including but not limited to notice under ORS 819.180, 809.720 or 809.725.

Washington County will maintain rotational tow lists for each area, but will not create or administer a tow list for an individual agency.

AGENDA ITEM # 4  
FOR AGENDA OF 11/23/04

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Discussion with State Senator Ginny Burdick and State Representative Larry Galizio

PREPARED BY: Joanne Bengtson JTB DEPT HEAD OK EUM CITY MGR OK EUM

ISSUE BEFORE THE COUNCIL

On November 23, 2004 the City Council will have an opportunity to discuss issues of interest to the City of Tigard with State Senator Ginny Burdick and State Representative Larry Galizio.

STAFF RECOMMENDATION

Identify issues of interest or concern to Senator Burdick and State Representative Galizio.

INFORMATION SUMMARY

Senator Burdick and Representative Galizio were contacted and agreed to meet with the City Council prior to the 2005 Legislative Session.

OTHER ALTERNATIVES CONSIDERED

None

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Community Character and Quality of Life – Communication Goal – Citizen involvement opportunities will be maximized by providing educational programs on process, assuring accessibility to information in a variety of formats, providing opportunities for input on community issues and establishing and maintaining two-way communication.

ATTACHMENT LIST

No attachments.

FISCAL NOTES

None



AGENDA ITEM # 5  
FOR AGENDA OF 11/23/04

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Formal Graduation of Tigard's Community Emergency Response Team (CERT) Volunteer Program Class II

PREPARED BY: Mike Lueck DEPT HEAD OK [Signature] CITY MGR OK [Signature]

ISSUE BEFORE THE COUNCIL

Meeting the neighborhood volunteers who are the second graduating class of the City's new Community Emergency Response Team (CERT) Program and provide some background information on where the program is now.

STAFF RECOMMENDATION

No action required; Informational only.

INFORMATION SUMMARY

The City of Tigard has a new "Partners Being Prepared" program, Community Emergency Response Team (CERT) designed to help our neighborhoods be ready for unexpected disasters. If a disaster overwhelms or delays the community's emergency services, CERT team members can provide life saving assistance, such as disaster medical aid, search and rescue and fire suppression during the critical first minutes. With the technical assistance of local emergency services, Tualatin Valley Fire and Rescue (TVFR), Tigard has trained an additional fourteen (14) individual volunteers from its community in basic response skills. The City's second class rotation was completed on October 30, 2004. Currently, through several advertisement avenues the City is recruiting for its third class, scheduled February 2005. The training and skills that these individuals received will help do the "greatest good for the greatest amount of people" in our community neighborhoods following a disaster until help arrives.

OTHER ALTERNATIVES CONSIDERED

None

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Goal: The program through initial and enhancement training will maximize the volunteer's effectiveness in emergency and non-emergency events, developing a strong partnership in emergency preparedness and community caring.

ATTACHMENT LIST

Sample copy of the "Achievement Certificate"

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### FISCAL NOTES

The City of Tigard's CERT program is 99% federally funded through a Department of Homeland Security (DHS) and Federal Emergency Management Administration (FEMA) Grant. The Grant is overseen by Oregon Department of State Police and Oregon Emergency Management (OEM) and managed by the City's CERT Coordinator. In FY 04 the City originally requested \$23,993.18 and was awarded \$4,509.00. The amount executed to date by the City is \$2,205.59. The City is currently drafting another application for Federal grant money to support this program through 2006.



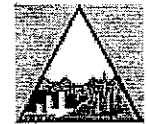
*Certificate of Completion  
This certificate signifies that*

**Student's Name**

*Has attended and successfully completed the*  
**Community Emergency Response Team Course**  
*Conducted by*  
*City of Tigard and Tualatin Valley Fire and Rescue*  
**September 7 – October 30, 2004, 24 Hour Course – TPBP102**



**“PARTNERS BEING PREPARED”**



City of Tigard

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**G. Michael Lueck**  
**Course Manager**

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**Craig Dirksen**  
**City Mayor**

AGENDA ITEM # 6  
FOR AGENDA OF November 23, 2004

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Formation of Sanitary Sewer Reimbursement District No. 32 (SW Fern Street)  
PREPARED BY: G. Berry DEPT HEAD OK [Signature] CITY MGR OK [Signature]

ISSUE BEFORE THE COUNCIL

Formation of a sewer reimbursement district to construct a sanitary sewer project as part of the Neighborhood Sewer Extension Program.

STAFF RECOMMENDATION

Approval of the attached Resolution forming the Reimbursement District.

INFORMATION SUMMARY

The proposed project would provide sewer service to six lots along SW Fern Street between SW 135<sup>th</sup> and 138<sup>th</sup> Avenues. Through the City's Neighborhood Sewer Extension Program, the City would install public sewers to each lot within the Reimbursement District and the owners would reimburse the City for a fair share of the cost of the public sewer at the time of connection to the sewer. In addition, each owner would be required to pay a connection fee, currently \$2,535, before connecting to the line and would be responsible for disconnecting the existing septic system according to County rules and any other plumbing modifications necessary to connect to the public line. Each owner has been notified of the hearing by mail. The notice, mailing list and additional details are included in the City Engineer's Report attached as Exhibit A to the proposed resolution.

On May 25, 2004, the City Council approved an agreement with Washington County to include the sewer as part of a project to improve SW Walnut Street between SW 121<sup>st</sup> and 135<sup>th</sup> Avenues through the Major Streets Transportation Improvement Program. Another resolution to finalize the formation of the Reimbursement District, with cost adjustments, will be submitted for Council action after construction is completed and actual construction costs are determined.

OTHER ALTERNATIVES CONSIDERED

None.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Not applicable.

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ATTACHMENT LIST

Proposed Resolution

Exhibit A, City Engineer's Report

Exhibit B, Map

Vicinity Map

Communication Plan

Notice to Owners

Mailing List

Resolutions Nos. 01 – 46, 03-55

Amendment to the Intergovernmental Agreement with Washington County for the Improvement of Walnut Street through the Major Streets Improvement Program

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FISCAL NOTES

Funding is by unrestricted sanitary sewer funds.

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CITY OF TIGARD, OREGON

RESOLUTION NO. 04-\_\_\_\_\_

A RESOLUTION ESTABLISHING SANITARY SEWER REIMBURSEMENT DISTRICT NO. 32 (SW FERN STREET)

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WHEREAS, the City has initiated the Neighborhood Sewer Extension Program to extend public sewers and recover costs through Reimbursement Districts in accordance with TMC Chapter 13.09; and

WHEREAS, these property owners have been notified of a public hearing in accordance with TMC 13.09.060 and a public hearing was conducted in accordance with TMC 13.09.050; and

WHEREAS, the City Engineer has submitted a report describing the improvements, the area to be included in the Reimbursement District, the estimated costs, a method for spreading the cost among the parcels within the District, and a recommendation for an annual fee adjustment; and

WHEREAS, the City Council has determined that the formation of a Reimbursement District as recommended by the City Engineer is appropriate.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

- SECTION 1      The City Engineer's report titled "Sanitary Sewer Reimbursement District No. 32", attached hereto as Exhibit A, is hereby approved.
- SECTION 2      A Reimbursement District is hereby established in accordance with TMC Chapter 13.09. The District shall be the area shown and described on Exhibit B. The District shall be known as "Sanitary Sewer Reimbursement District No. 32, SW Fern Street."
- SECTION 3      Payment of the reimbursement fee as shown in Exhibit A is a precondition of receiving City permits applicable to development of each parcel within the Reimbursement District as provided for in TMC 13.09.110.
- SECTION 4      An annual fee adjustment, at a rate recommended by the Finance Director, shall be applied to the Reimbursement Fee.
- SECTION 5      The City Recorder shall cause a copy of this resolution to be filed in the office of the County Recorder and shall mail a copy of this resolution to all affected property owners at their last known address, in accordance with TMC 13.09.090.
- SECTION 6      This resolution is effective upon passage.

PASSED:      This \_\_\_\_\_ day of \_\_\_\_\_ 2004.

\_\_\_\_\_  
Mayor - City of Tigard

ATTEST:

\_\_\_\_\_  
City Recorder - City of Tigard

## **Exhibit A**

### **City Engineer's Report Sanitary Sewer Reimbursement District No. 32 (SW Fern)**

#### Background

This project will be constructed and funded under the City of Tigard Neighborhood Sewer Extension Program (NSEP). Under the program the City of Tigard would install public sewers to each lot within the project area. At the time the property owner connects to the sewer, the owner would pay a connection fee, currently \$2,535, and reimburse the City for a fair share of the cost of the public sewer. There is no requirement to connect to the sewer or pay any fee until connection is made. In addition, property owners are responsible for disconnecting their existing septic system according to Washington County rules and for any other modifications necessary to connect to the public sewer.

#### Project Area - Zone of Benefit

An existing line in Fern Street will be extended east to service six lots as shown on Exhibit Map B.

#### Cost

The estimated cost for the sanitary sewer construction to provide service to the six lots is \$40,474. Engineering and inspection fees amount to \$5,464 (13.5%) as defined in TMC 13.09.040(1). The estimated total project cost is \$45,938. This is the estimated amount that should be reimbursed to the sanitary sewer fund as properties connect to the sewer and pay their fair share of the total amount. However, the actual amount that each property owner pays is subject to the City's incentive program for early connections.

In addition to sharing the cost of the public sewer line, each property owner will be required to pay an additional \$2,535 connection and inspection fee when connection to the public line is made. All owners will be responsible for all plumbing costs required for work done on private property.

#### Reimbursement Rate

All properties are zoned R-4.5 but vary in lot size from 21,000 to 57,000 square feet as can be seen in the following list of lots. Therefore, it is recommended that the total cost of this portion of the project be divided among the seven properties proportional to the square footage of each property.

Other reimbursement methods include dividing the cost equally among the owners or by the length of frontage of each property. These methods are not recommended

because there is no correlation between these methods and the cost of providing service to each lot or the benefit to each lot.

Each property owner's estimated fair share of the public sewer line is \$0.187 per square foot of the lot served. Each owner's fair share would be limited to \$6,000, to the extent that it does not exceed \$15,000, for connections completed within three years of City Council approval of the final City Engineer's Report following construction in accordance with Resolution 01-46 (attached). In addition to paying for the first \$6,000, owners will remain responsible for paying all actual costs that exceed \$15,000. Upon request, payment of costs that exceed \$15,000 may be deferred until the lot is developed as provided by Resolution 03-55 (attached).

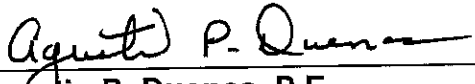
#### Annual Fee Adjustment

TMC 13.09.115 states that an annual percentage rate shall be applied to each property owner's fair share of the sewer line costs on the anniversary date of the reimbursement agreement. The Finance Director has set the annual interest rate at 6.05% as stated in City of Tigard Resolution No. 98-22.

#### Recommendation

It is recommended that a reimbursement district be formed with an annual fee increase as indicated above and that the reimbursement district continue for fifteen years as provided in the Tigard Municipal Code (TMC) 13.09.110(5). Fifteen years after the formation of the reimbursement district, properties connecting to the sewer would no longer be required to pay the reimbursement fee.

Submitted November 9, 2004

  
\_\_\_\_\_  
Agustin P. Duenas, P.E.  
City Engineer

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# FERN STREET

## Reimbursement District No. 32

*Estimated Cost to Property Owners  
November 8, 2004*

	OWNER	SITE ADDRESS	TAX LOT ID	AREA (S.F.)	ESTIMATED	PAID BY OWNER	PAID BY CITY
					COST TO PROPERTY OWNER		
1	HAVILAND, RANDALL S TR & LEUEEN M	13625 SW FERN ST	2S104BD01300	21169.66925	\$3,957	\$3,957	\$0
2	ROMAN, CATHOLIC ARCHBISHOP OF PORTLAND	13665 SW FERN ST	2S104BD01400	22346.68844	\$4,177	\$4,177	\$0
3	BENETTI, MARCO A & SALLY A	13650 SW FERN ST	2S104BD02100	48852.1919	\$9,132	\$6,000	\$3,132
4	NATHMAN, CHRISTINE P & PARISI, BARNARDINO	13640 SW FERN ST	2S104BD02200	57418.4428	\$10,733	\$6,000	\$4,733
5	CLARKE, JOHN A & NANCY J	13620 SW FERN ST	2S104BD02300	51257.81613	\$9,581	\$6,000	\$3,581
6	CLARKE, JOHN A & NANCY J	NO ADDRESS (FERN ST)	2S104BD02102	44716.0566	\$8,358	\$6,000	\$2,358
				<b>Totals</b>	<b>245761</b>	<b>\$45,938</b>	<b>\$32,134</b>
							<b>\$13,804</b>

FERN STREET  
Reimbursement District No. 32  
*Estimated Cost to Property Owners  
Summary  
November 8, 2004*

---

Estimated Construction Cost	<b>\$35,195</b>
15% contingency (construction)	\$5,279
<b>Estimated construction subtotal</b>	<b>\$40,474</b>
13.5% contingency (Admin & Eng)	\$5,464
<b>total project costs</b>	<b>\$45,938</b>
total area to be served (S.F.)	245,761
total cost per S.F. to property owner	<b>\$0.18692266</b>

FERN STREET  
SANITARY SEWER IMPROVEMENTS REIMBURSEMENT DISTRICT #32  
A PORTION OF THE NE 1/4 OF SECTION 4 T2S R1W W.M.

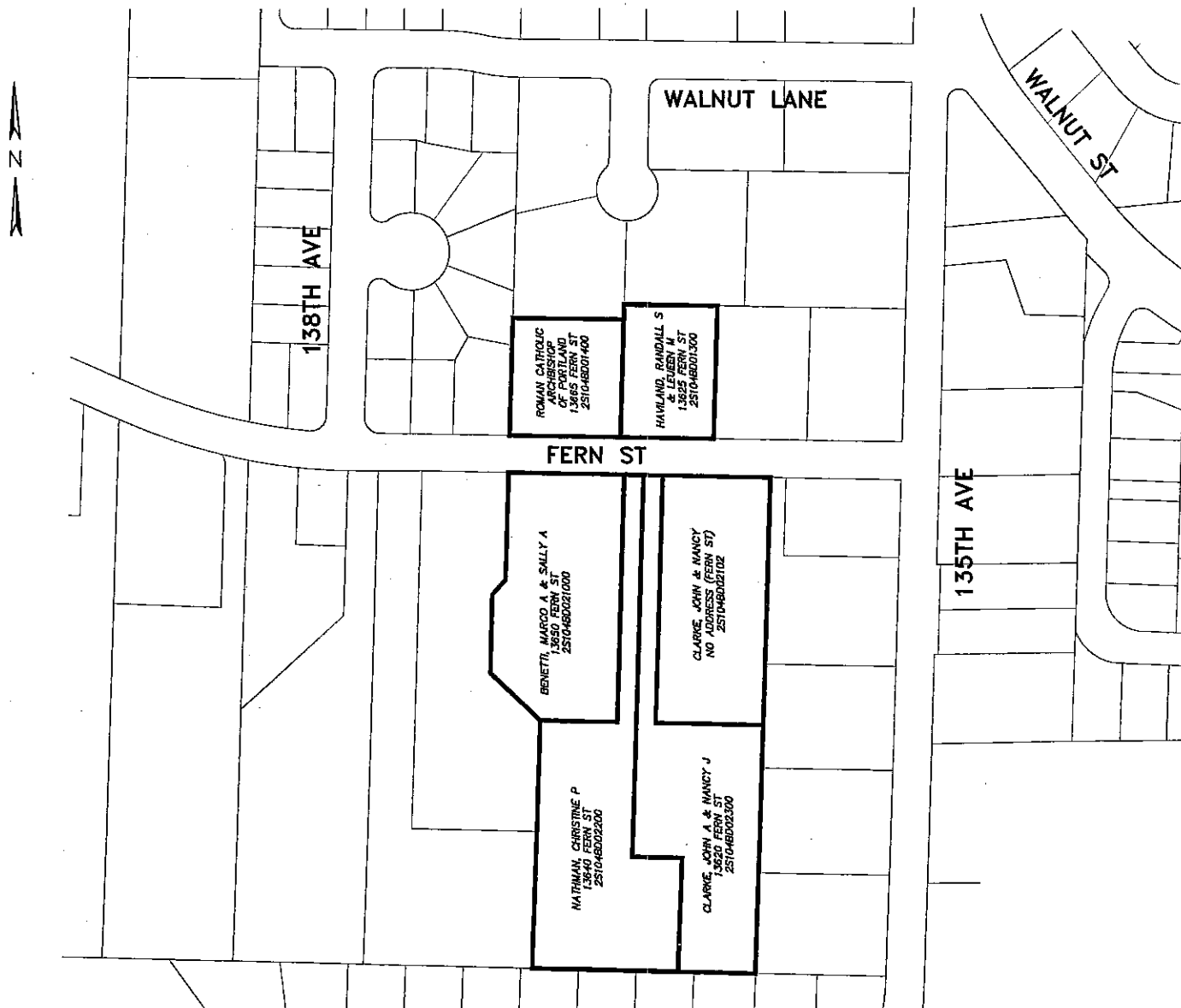
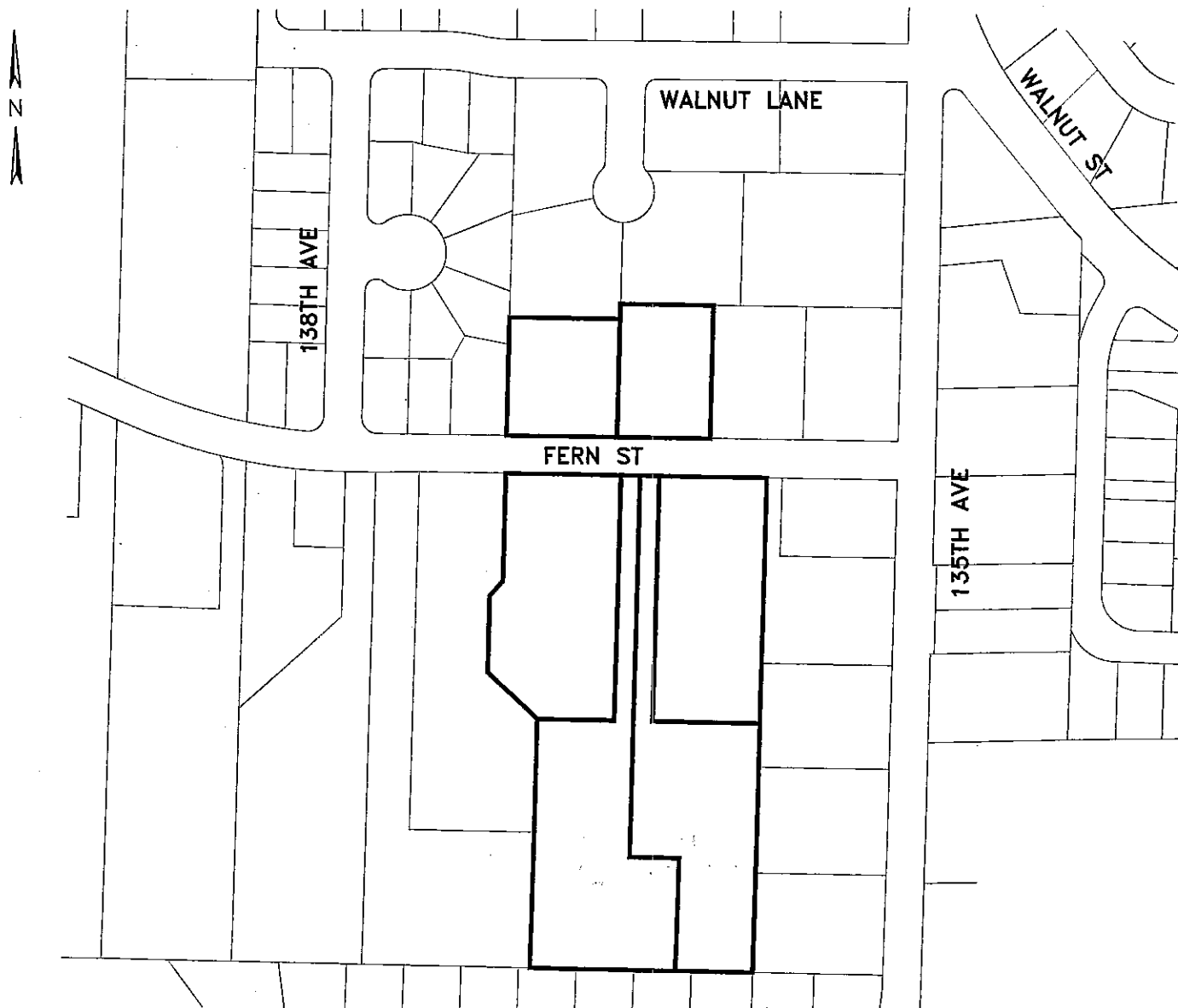


EXHIBIT B

FERN STREET  
SANITARY SEWER IMPROVEMENTS REIMBURSEMENT DISTRICT #32  
A PORTION OF THE NE 1/4 OF SECTION 4 T2S R1W W.M.



VICINITY MAP

# Communications Plan

## Sanitary Sewer Reimbursement District No. 32 (SW Fern Street)

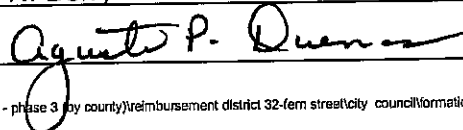
**Goal:** Construction of a Sanitary Sewer Extension for Reimbursement District No. 32.

**Timeline:** FY 04-05 Construction Season.

**Communication Goal:** To communicate to property owners within the Sanitary Sewer Reimbursement District the estimated cost of connecting to the public sanitary sewer line, the construction schedule, and final cost for the Reimbursement District.

Date	Item	Description	Responsibility
3/18/04	General Meeting	Explain Program to Reimbursement District property owners proposed for FY04-05	Engineering Manager
9/9/04	Neighborhood Meeting Notice	Mail Meeting Notice to property owners within the Reimbursement District No. 32	Engineering Clerical Services
	Events Calendar	Post Meeting on Web Page Events Calendar	Engineering Clerical Services
9/22/04	Neighborhood Meeting	Meet with property owners to review estimated costs and construction activity.	Engineering Manager Consultant
11/8/04	Hearing Notice	Mail Notice of formation of Reimbursement District to Property Owners	Engineering Clerical Services
11/23/04	Formation Hearing	City Council reviews and forms proposed Sanitary Sewer District	City Engineer
12/4/04	Notice of Decision	Mail Notice of Decision to property owners within District	Engineering Clerical Services
	Lateral Locations	Confirm with property owners location of laterals	Inspector
	Construction Notice	Hang Construction Notice on doorknobs of property owners impacted by project	Inspector Contractor
	Construction Inspection	Inspector is available to receive and respond to complaints.	Inspector
	Notice to property owners of final hearing	Send hearing notice, Resolution, property owner cost to each property owner.	Project Engineer Engineering Clerical Services
	Final Notice	Send approved Resolution with final costs to each property owner	Project Engineer Engineering Clerical Services

Prepared by: G. N. Berry

Approved by: 

\\eng\2004-2005 fy\cpl\walnut street - phase 3, by county\reimbursement district 32-fern street\city council\formation\11-23-04 reim dist 32 communications plan.doc

November 8, 2004

# NOTICE

## Informational Hearing

NOTICE IS HEREBY GIVEN  
THAT THE **TIGARD CITY COUNCIL**  
AT A MEETING ON  
**TUESDAY, November 23, 2004 AT 7:30 PM**  
IN THE TOWN HALL OF THE TIGARD CIVIC CENTER  
13125 SW HALL BLVD  
TIGARD OR 97223

TO CONSIDER THE FOLLOWING:

**Proposed Sanitary Sewer Reimbursement District No. 32.**  
(SW Fern Street)

The Tigard City Council will conduct an informational public hearing to hear testimony on the proposed Reimbursement District formed to install sewers in SW Fern Street.

*Both public oral and written testimony is invited.*

The public hearing on this matter will be conducted as required by  
Section 13.09.060 of the Tigard Municipal Code.

Further information and the scheduled time for this item during the Council meeting may be obtained from the Engineering Department, 13125 SW Hall Blvd. Tigard, Oregon 97223, by calling 503 718-2468 or at [www.ci.tigard.or.us](http://www.ci.tigard.or.us).

## **Proposed Sanitary Sewer Reimbursement District No. 32 (SW Fern Street)**

At this meeting, City Council will be requested to form a sewer reimbursement district to provide your neighborhood with sewer service. There is no requirement to connect to the sewer or pay any fee until connection is made. Each property owner's estimated fair share of the public sewer line is based on the area of the lot served and is summarized in the attached tables. This amount will be revised once construction is completed and final costs are determined. An annual increase of 6.05% simple interest will also be applied to this amount.

The amount each property owner will be required to pay will be limited to \$6,000 for connections completed within three years of City Council approval of the final City Engineer's Report following construction, in accordance with Resolution 01-46. Please note that this resolution also requires the owner to pay any fair share amounts that exceed \$15,000. Consequently, if the final fair share for an owner exceeds \$15,000, the owner would be required to pay \$6,000 plus the amount the fair share exceeds \$15,000. Under Resolution 03-55, payment of the amount in excess of \$15,000 may be deferred until the owner's lot is developed.

The owner would also be required to pay a connection fee of \$2,535 at the time of connection to the sewer. In addition, property owners are responsible for disconnecting their existing septic system according to Washington County rules and for any other modifications necessary to connect to the public sewer.

2S104BD-02100  
BENETTI MARCO A & SALLY A  
13650 SW FERN ST  
TIGARD, OR 97223

2S104BD-02102  
CLARKE JOHN A & NANCY J  
54966 MALLARD DR  
BEND, OR 97707

2S104BD-02300  
CLARKE JOHN A & NANCY J  
54966 MALLARD DR  
BEND, OR 97707

2S104BD-01300  
HAVILAND RANDALL S TR &  
HAVILAND LEUEEN M  
13625 SW FERN ST  
TIGARD, OR 97223

2S104BD-02200  
NATHMAN CHRISTINE P &  
PARISI BERARDINO  
13640 SW FERN ST  
PORTLAND, OR 97223

2S104BD-01400  
ROMAN CATHOLIC ARCHBISHOP OF  
PORTLAND IN OREGON  
2838 E BURNSIDE  
PORTLAND, OR 97214



**CITY OF TIGARD, OREGON**

**RESOLUTION NO. 01-46**

**A RESOLUTION REPEALING RESOLUTION NO. 98-51 AND ESTABLISHING A REVISED AND ENHANCED NEIGHBORHOOD SEWER REIMBURSEMENT DISTRICT INCENTIVE PROGRAM**

---

**WHEREAS**, the City Council has initiated the Neighborhood Sewer Extension Program to extend public sewers through Reimbursement Districts in accordance with TMC Chapter 13.09; and

**WHEREAS**, on October 13, 1998, the City Council established The Neighborhood Sewer Reimbursement District Incentive Program through Resolution No. 98-51 to encourage owners to connect to public sewer. The program was offered for a two-year period after which the program would be evaluated for continuation; and

**WHEREAS**, on September 26, 2000, the City Council extended The Neighborhood Sewer Reimbursement District Incentive Program an additional two years through Resolution No. 00-60; and

**WHEREAS**, City Council finds that residential areas that remain without sewer service should be provided with service within five years; and

**WHEREAS**, Council has directed that additional incentives should be made available to encourage owners to promptly connect to sewers once service is available and that owners who have paid for service provided by previously established districts of the Neighborhood Sewer Extension Program should receive the benefits of the additional incentives.

**NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:**

**SECTION 1:** Resolution No. 98-51 establishing the Neighborhood Sewer Reimbursement District Incentive Program is hereby repealed.

**SECTION 2:** A revised incentive program is hereby established for the Neighborhood Sewer Extension Program. This incentive program shall apply to sewer connections provided through the sewer reimbursement districts shown on the attached Table 1 or established thereafter. All connections qualifying under this program must be completed within **three years** after Council approval of the final City Engineer's Report following a public hearing conducted in accordance with TMC Section 13.09.105 or by **two years** from the date this resolution is passed, which ever is later, as shown on the attached Table 1.

**SECTION 3:** To the extent that the reimbursement fee determined in accordance with Section 13.09.040 does not exceed \$15,000, the amount to be reimbursed by an owner of a lot zoned single family residential shall not exceed \$6,000 per connection, provided that the lot owner complies with the provisions of Section 2. Any amount over \$15,000 shall be reimbursed by the owner. This applies only to the reimbursement fee for the sewer installation and not to the connection fee, which is still payable upon application for

sewer connection.

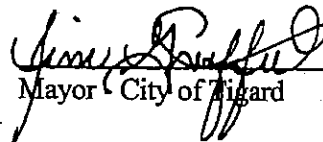
**SECTION 4:** The City Engineer's Report required by TMC Chapter 13.09 shall apply the provisions of this incentive program. Residential lot owners who do not connect to sewer in accordance with Section 2 shall pay the full reimbursement amount as determined by the final City Engineer's Report.

**SECTION 5:** Any person who has paid a reimbursement fee in excess of the fee required herein is entitled to reimbursement from the City. The amounts to be reimbursed and the persons to be paid shall be determined by the Finance Director and approved by the City Manager. There shall be a full explanation of any circumstances that require payment to any person who is not an original payer. The Finance Director shall make payment to all persons entitled to the refund no later than August 31, 2001.

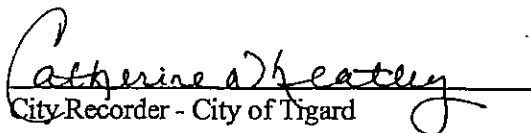
**SECTION 6:** The Sanitary Sewer Fund, which is the funding source for the Neighborhood Sewer Reimbursement District Program, shall provide the funding for the installation costs over \$6,000 up to a maximum of \$15,000 per connection.

**EFFECTIVE DATE:** July 10, 2001

**PASSED:** This 10<sup>th</sup> day of July 2001.

  
Mayor City of Tigard

**ATTEST:**

  
City Recorder - City of Tigard

I:\Citywide\Res\Resolution Revising the Neighborhood Sewer Incentive Program

**TABLE 1**  
**Reimbursement Districts with Refunds Available**

DISTRICT	FEE PER LOT	REIMBURSEMENT AVAILABLE	INCENTIVE PERIOD ENDS
TIGARD ST.No.8	5,193	No reimbursement available	
FAIRHAVEN ST/WYNo.9	4,506	No reimbursement available	
HILLVIEW ST No.11	8,000		July 11, 2003
106 <sup>TH</sup> & JOHNSON No.12	5,598	No reimbursement available	
100 <sup>TH</sup> & INEZ No.13	8,000		July 11,2003
WALNUT & TIEDEMAN No.14	8,000		July 11,2003
BEVELAND&HERMOSA No.15	5,036	No reimbursement available	
DELMONTE No.16	8,000		July 11,2003
O'MARA No.17	8,000		July 11,2003
WALNUT & 121 <sup>ST</sup> No.18	-	Amount to be reimbursed will be	Throo years from service availability
ROSE VISTA No.20	-	determined once final costs are determined.	

\* Currently being constructed

**CITY OF TIGARD, OREGON**

**RESOLUTION NO. 03- 55**

**A RESOLUTION PROVIDING ADDITIONAL INCENTIVES TO THE NEIGHBORHOOD SEWER REIMBURSEMENT DISTRICT INCENTIVE PROGRAM (RESOLUTION NO. 01 - 46).**

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**WHEREAS**, the City Council has initiated the Neighborhood Sewer Extension Program to extend public sewers through Reimbursement Districts in accordance with TMC Chapter 13.09; and

**WHEREAS**, on July 10, 2001, the City Council established the Revised and Enhanced Neighborhood Sewer Reimbursement District Incentive Program through Resolution No. 01-46 to encourage owners to connect to public sewer within three-years following construction of sewers; and

**WHEREAS**, Council has directed that additional incentives should be made available to encourage owners of large lots to promptly connect to sewers once service is available.

**NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:**

- SECTION 1:** In addition to the incentives provided by Resolution No. 01-46, any person whose reimbursement fee exceeds \$15,000 and wishes to connect a single family home or duplex to a sewer constructed through a reimbursement district may defer payment of the portion of the reimbursement fee that exceeds \$15,000, as required by Section 3 of Resolution No. 01-46, until the lot is partitioned or otherwise developed in accordance with a land use permit. The land use permit shall not be issued until payment of the deferred amount is made. The Annual Fee Adjustment required by TMC Section 13.09.115 shall not apply to payment of this deferred amount.
- SECTION 2:** Lots that qualify under Section 1, within reimbursement districts that have exceeded the three-year period for connection, and have not connected to sewer can connect the existing structure, pay a reimbursement fee of \$6,000, and defer payment of the portion of the reimbursement fee that exceeds \$15,000 if connection to the sewer is completed within one year after the effective date of this resolution.
- SECTION 3:** Vacant lots improved with a single family home or duplex during the term of the reimbursement district shall qualify for the provisions of Resolution No. 01-46, pay \$6,000 if the fee exceeds that amount, and may defer payment of the portion of the reimbursement fee that exceeds \$15,000 as provided by Section 1.
- SECTION 4:** Vacant lots that are partitioned, subdivided, or otherwise developed during the life of the reimbursement district shall qualify for the provisions of Resolution No. 01-46, shall pay a reimbursement fee of \$6,000, and shall pay any amount due over \$15,000 at the time of development. The Annual Fee Adjustment required by TMC Section 13.09.115 shall not apply to payments made under this section.
- SECTION 5:** The owner of any lot for which deferred payment is requested must enter into an agreement with the City, on a form prepared by the City Engineer, acknowledging the


owner's and owner's successors obligation to pay the deferred amount as described in Section 1. The City Recorder shall cause the agreement to be filed in the office of the County Recorder to provide notice to potential purchasers of the lot. The recording will not create a lien. Failure to make such a recording shall not affect the obligation to pay the deferred amount.

SECTION 6: Any person who qualifies under Section 1 and has paid a reimbursement fee for the portion of the reimbursement fee in excess of \$15,000 is entitled to reimbursement for that amount from the City upon request. The amounts to be reimbursed and the persons to be paid shall be determined by the Finance Director and approved by the City Manager. There shall be a full explanation of any circumstances that require payment to any person who is not an original payer. Any person requesting a refund must sign an agreement similar to that described in Section 5 acknowledging the obligation to pay the refunded amount upon partitioning or developing the lot.

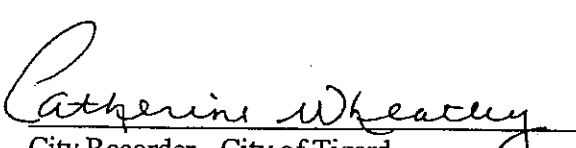
SECTION 7: The Sanitary Sewer Fund continues to remain the funding source for the Neighborhood Sewer Reimbursement District Program and shall provide the funding for the installation costs over \$6,000 up to a maximum of \$15,000 per connection and for any deferred payment permitted by this resolution.

SECTION 8: This resolution is effective immediately upon passage.

PASSED: This 14<sup>th</sup> day of October 2003.

  
~~Mayor City of Tigard~~  
Craig E. Dirksen, Council President

ATTEST:

  
Catherine Wheatey  
City Recorder - City of Tigard

\\eng\reg\reimbursement districts\revisions res 01-48 aug 28 03\oct 14 03 council\10-14-03 addition to res 1-48 res.doc

# **INTERGOVERNMENTAL AGREEMENT**

## **MAJOR STREETS TRANSPORTATION IMPROVEMENT PROGRAM FOR ROADWAY IMPROVEMENTS TO:**

**SW WALNUT STREET: SW 121<sup>st</sup> AVENUE to SW 135<sup>th</sup> AVENUE  
CITY OF TIGARD**

### **AMENDMENT NO. 1**

THIS AMENDMENT modifies the Agreement dated February 24, 2004, between WASHINGTON COUNTY, acting by and through its Elected Officials, hereinafter referred to as "COUNTY"; and the CITY OF TIGARD, acting by and through its City Council, hereinafter referred to as "CITY."

### **W I T N E S S E T H**

#### **ARTICLE 1 - RECITALS**

WHEREAS, the COUNTY and CITY have determined that because of the proposed closure of SW Walnut Lane at the intersection of SW Walnut Street and SW 135<sup>th</sup> Avenue, SW Fern Street, from SW 135<sup>th</sup> to SW 138<sup>th</sup>, will receive an increase in traffic volumes as residents will be diverted to use SW Fern Street for access purposes because of the closure of SW Walnut Lane; and

WHEREAS, the COUNTY and CITY have determined that SW Fern Street, from SW 135<sup>th</sup> to SW 138<sup>th</sup>, is deficient to safely handle the projected increase in traffic volume in its current state; and

WHEREAS, the COUNTY and CITY have determined that safety and road improvements consisting of widening, new pavement, extruded curbs, storm and sanitary sewer modifications, herein after referred to as "Fern Street Improvements", should be undertaken; and

WHEREAS, the COUNTY and CITY have agreed to include these road and safety improvements as part of the SW Walnut Street Improvement Project, and both parties desire to modify the original Agreement to include this increase in scope and costs, and CITY agrees to pay for such improvement work that is further described and shown on attached Exhibit A.

NOW, THEREFORE, in consideration of the premises and of the covenants and agreements to be kept and performed by the parties hereto, it is agreed that the original agreement is hereby amended as follows:

## **ARTICLE 2 – WASHINGTON COUNTY OBLIGATIONS**

1. COUNTY shall perform, or cause to be performed, all actions necessary for the design and construction of the Fern Street Improvements as part of PROJECT.
2. COUNTY shall review the Fern Street Improvements plans, bid items, quantities and technical specifications and incorporate the Fern Street Improvements as specific bid items into the bid documents for the PROJECT.
3. COUNTY shall, following the bid opening, notify the CITY of the amount of the construction cost of the Fern Street Improvements as contained in the bid and provide CITY the opportunity for review of the contract bid proposal prior to contract award.

## **ARTICLE 3 - CITY OF TIGARD OBLIGATIONS**

1. CITY shall provide all inspection and testing of the Fern Street Improvements in coordination with the COUNTY.

## **ARTICLE 4 - COMPENSATION**

1. DESIGN: As design work upon the PROJECT, including the Fern Street Improvements, is performed, County shall, on a quarterly basis, prepare and submit design invoices to CITY for the cost of the work for Fern Street Improvements. Estimated design costs are \$37,695.

Notwithstanding, the estimate of the costs shown above, the CITY shall reimburse the COUNTY for the actual amount of its cost incurred for the design of the Fern Street Improvements.

2. CONSTRUCTION: As construction work upon the PROJECT is performed, COUNTY shall, on a quarterly basis, prepare and submit construction invoices to the CITY for the construction of the Fern Street Improvements. Estimated construction costs for the Fern Street Improvements are \$114,900, not including overlay, which is estimated at \$5,500.

In addition to the Fern Street Improvements bid items, the CITY shall also pay COUNTY for any easement acquisition cost associated with the Fern Street Improvements, an allocated share of the costs of applicable lump sum contract items (i.e. mobilization, erosion control), extra work required for the Fern Street Improvements and non-construction costs. Non-construction costs include the cost of COUNTY services including project management and surveying which shall be calculated at a flat rate of five percent (5%) of the Fern Street Improvements

## ARTICLE 5 – PROJECT DEFINITION AND SCOPE

### 2. SCOPE:

The scope of improvements associated with the PROJECT and described in the original Agreement shall remain unchanged, but include:

- A) CITY desired elements for improvements to SW Fern Street, from SW 135<sup>th</sup> to SW 138<sup>th</sup> Avenues, including road widening, new pavement, extruded curbs, storm and sanitary sewer modifications.

IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year hereinafter written.

DONE AND DATED this \_\_\_\_ day of \_\_\_\_\_, 2004.

CITY OF TIGARD

Mayor

Date: May 25, 2004

ATTEST:

City Recorder

WASHINGTON COUNTY, OREGON

Chair

Date: 7-6-04

APPROVED WASHINGTON COUNTY

BOARD OF COMMISSIONERS

MINUTE ORDER # 04-149

DATE 5/11/04

Recording Secretary

APPROVED AS TO FORM:

Loretta S. Skurdahl

Senior Assistant County Counsel



AGENDA ITEM # 7  
FOR AGENDA OF November 23, 2004

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Formation of Sanitary Sewer Reimbursement District No. 33 (SW Walnut Street)  
PREPARED BY: 2113 G. Berry DEPT HEAD OK [Signature] CITY MGR OK [Signature]

ISSUE BEFORE THE COUNCIL

Formation of a sewer reimbursement district to construct a sanitary sewer project as part of the Neighborhood Sewer Extension Program.

STAFF RECOMMENDATION

Approval of the attached Resolution forming the Reimbursement District.

INFORMATION SUMMARY

The proposed project would provide sewer service to three lots along the south side of SW Walnut Street east of SW 134<sup>th</sup> Avenue and two lots west of SW 124<sup>th</sup> Avenue. Through the City's Neighborhood Sewer Extension Program, the City would install public sewers to each lot within the Reimbursement District and the owners would reimburse the City for a fair share of the cost of the public sewer at the time of connection to the sewer. In addition, each owner would be required to pay a connection fee, currently \$2,535, before connecting to the line and would be responsible for disconnecting the existing septic system according to County rules and any other plumbing modifications necessary to connect to the public line. Each owner has been notified of the hearing by mail. The notice, mailing list and additional details are included in the City Engineer's Report attached as Exhibit A to the proposed resolution.

On February 10, 2004, the City Council approved an agreement with Washington County to improve Walnut Street between SW 121<sup>st</sup> and 135<sup>th</sup> Avenues through the Major Streets Transportation Improvement Program. The agreement provides for the construction of the sewer within the proposed reimbursement district. Another resolution to finalize the formation of the Reimbursement District, with cost adjustments, will be submitted for Council action after construction is completed and actual construction costs are determined.

OTHER ALTERNATIVES CONSIDERED

None.

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VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

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Not applicable.

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ATTACHMENT LIST

Proposed Resolution

Exhibit A, City Engineer's Report

Exhibit B, Map

Vicinity Map

Communication Plan

Notice to Owners

Mailing List

Resolutions Nos. 01 – 46, 03-55

Intergovernmental Agreement with Washington County for the Improvement of Walnut Street through the Major Streets Improvement Program

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FISCAL NOTES

Funding is by unrestricted sanitary sewer funds.

\\eng\2004-2005 fy cpl\walnut street - phase 3 (by county)\reimbursement district 33-walnut street\city council\formation\11-23-04\reim dist 33 als.doc

CITY OF TIGARD, OREGON

RESOLUTION NO. 04-\_\_\_\_\_

A RESOLUTION ESTABLISHING SANITARY SEWER REIMBURSEMENT DISTRICT NO. 33 (SW WALNUT STREET)

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WHEREAS, the City has initiated the Neighborhood Sewer Extension Program to extend public sewers and recover costs through Reimbursement Districts in accordance with TMC Chapter 13.09; and

WHEREAS, these property owners have been notified of a public hearing in accordance with TMC 13.09.060 and a public hearing was conducted in accordance with TMC 13.09.050; and

WHEREAS, the City Engineer has submitted a report describing the improvements, the area to be included in the Reimbursement District, the estimated costs, a method for spreading the cost among the parcels within the District, and a recommendation for an annual fee adjustment; and

WHEREAS, the City Council has determined that the formation of a Reimbursement District as recommended by the City Engineer is appropriate.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

- SECTION 1      The City Engineer's report titled "Sanitary Sewer Reimbursement District No. 33", attached hereto as Exhibit A, is hereby approved.
- SECTION 2      A Reimbursement District is hereby established in accordance with TMC Chapter 13.09. The District shall be the area shown and described on Exhibit B. The District shall be known as "Sanitary Sewer Reimbursement District No. 33, SW Walnut Street."
- SECTION 3      Payment of the reimbursement fee as shown in Exhibit A is a precondition of receiving City permits applicable to development of each parcel within the Reimbursement District as provided for in TMC 13.09.110.
- SECTION 4      An annual fee adjustment, at a rate recommended by the Finance Director, shall be applied to the Reimbursement Fee.
- SECTION 5      The City Recorder shall cause a copy of this resolution to be filed in the office of the County Recorder and shall mail a copy of this resolution to all affected property owners at their last known address, in accordance with TMC 13.09.090.
- SECTION 6      This resolution is effective upon passage.

PASSED:      This \_\_\_\_\_ day of \_\_\_\_\_ 2004.

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Mayor - City of Tigard

ATTEST:

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City Recorder - City of Tigard

RESOLUTION NO. 04-

Page 1

## **Exhibit A**

### **City Engineer's Report Sanitary Sewer Reimbursement District No. 33 (SW Walnut Street)**

#### **Background**

This project will be constructed and funded under the City of Tigard Neighborhood Sewer Extension Program (NSEP). Under the program the City of Tigard would install public sewers to each lot within the project area. At the time the property owner connects to the sewer, the owner would pay a connection fee, currently \$2,535, and reimburse the City for a fair share of the cost of the public sewer. There is no requirement to connect to the sewer or pay any fee until connection is made. In addition, property owners are responsible for disconnecting their existing septic system according to Washington County rules and for any other modifications necessary to connect to the public sewer.

#### **Project Area - Zone of Benefit**

An existing line in SW Walnut Street will be extended east of SW 134<sup>th</sup> Avenue to serve three lots and west from SW 124<sup>th</sup> Avenue to serve two lots as shown on Exhibit Map B.

#### **Cost**

The estimated cost for the sanitary sewer construction to provide service to the five lots is \$42,036. Engineering and inspection fees amount to \$5,675 (13.5%) as defined in TMC 13.09.040(1). The estimated total project cost is \$47,711. This is the estimated amount that should be reimbursed to the sanitary sewer fund as properties connect to the sewer and pay their fair share of the total amount. However, the actual amount that each property owner pays is subject to the City's incentive program for early connections.

In addition to sharing the cost of the public sewer line, each property owner will be required to pay an additional \$2,535 connection and inspection fee when connection to the public line is made. All owners will be responsible for all plumbing costs required for work done on private property.

#### **Reimbursement Rate**

All properties are zoned R-4.5 but vary in lot size from 14,000 to 93,000 square feet as can be seen in the following list of lots. Therefore, it is recommended that the total cost of this portion of the project be divided among the five properties proportional to the square footage of each property.

Other reimbursement methods include dividing the cost equally among the owners or by the length of frontage of each property. These methods are not recommended because there is no correlation between these methods and the cost of providing service to each lot or the benefit to each lot.

**Each property owner's estimated fair share of the public sewer line is \$0.184 per square foot of lot served. Each owner's fair share would be limited to \$6,000 to the extent that it does not exceed \$15,000, for connections completed within three years of City Council approval of the final City Engineer's Report following construction in accordance with Resolution 01-46 (attached). In addition to paying for the first \$6,000, owners will remain responsible for paying all actual costs that exceed \$15,000. Upon request, payment of costs that exceed \$15,000 may be deferred until the lot is developed as provided by Resolution 03-55 (attached).**

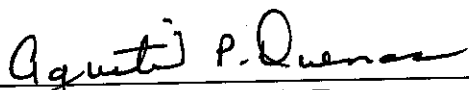
#### Annual Fee Adjustment

TMC 13.09.115 states that an annual percentage rate shall be applied to each property owner's fair share of the sewer line costs on the anniversary date of the reimbursement agreement. The Finance Director has set the annual interest rate at 6.05% as stated in City of Tigard Resolution No. 98-22.

#### Recommendation

It is recommended that a reimbursement district be formed with an annual fee increase as indicated above and that the reimbursement district continue for fifteen years as provided in the Tigard Municipal Code (TMC) 13.09.110(5). Fifteen years after the formation of the reimbursement district, properties connecting to the sewer would no longer be required to pay the reimbursement fee.

Submitted November 9, 2004

  
\_\_\_\_\_  
Agustin P. Duenas, P.E.  
City Engineer

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WALNUT STREET  
Reimbursement District No. 33

*Preliminary Cost to Property Owners*

November 9, 2004

OWNER	SITE ADDRESS	TAX LOT ID	AREA (S.F.)	ESTIMATED COST TO PROPERTY OWNER	PAID BY OWNER	PAID BY CITY
1 LEARY, KATHLEEN JOAN	13320 SW WALNUT	2S104AC10900	92561.8754	\$17,060	\$8,060	\$9,000
2 HELM, LAVELLE I TRUSTEE	13280 SW WALNUT	2S104AC00200	93389.39123	\$17,212	\$8,212	\$9,000
3 WEINANDY, MICHAEL C & DONAHUE, MARY	13300 SW WALNUT	2S104AC10800	44903.06836	\$8,276	\$6,000	\$2,276
4 TRIGG, CHARLES L	12570 SW WALNUT	2S104AD04000	13790.93808	\$2,542	\$2,542	\$0
5 CARLTON, MARK M & DEMELLO, BRENDA	12600 SW WALNUT	2S104AD03900	14218.40744	\$2,621	\$2,621	\$0
Totals			258864	\$47,711	\$27,435	\$20,276

WALNUT STREET  
Reimbursement District No. 33  
*Preliminary Cost to Property Owners  
Summary  
November 9, 2004*

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Estimated Construction Cost	\$36,553
15% contingency (construction)	\$5,483
Estimated construction subtotal	\$42,036
13.5% contingency (Admin & Eng)	\$5,675
total project costs	\$47,711
total area to be served (S.F.)	258,864
total cost per S.F. to property owner	\$0.18430860



WALNUT STREET  
SANITARY SEWER IMPROVEMENTS REIMBURSEMENT DISTRICT #33  
A PORTION OF THE NE 1/4 OF SECTION 4 T2S R1W W.M.

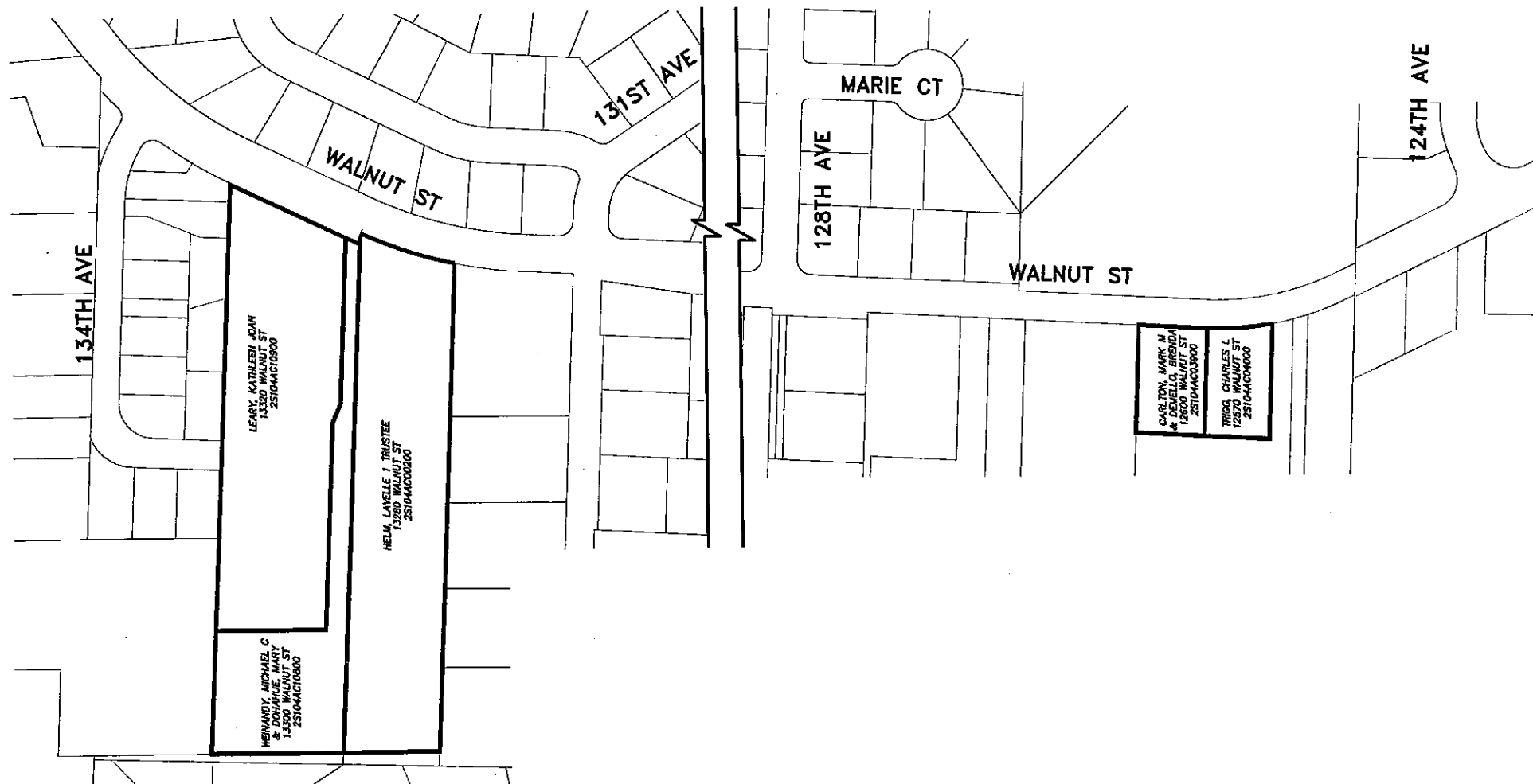
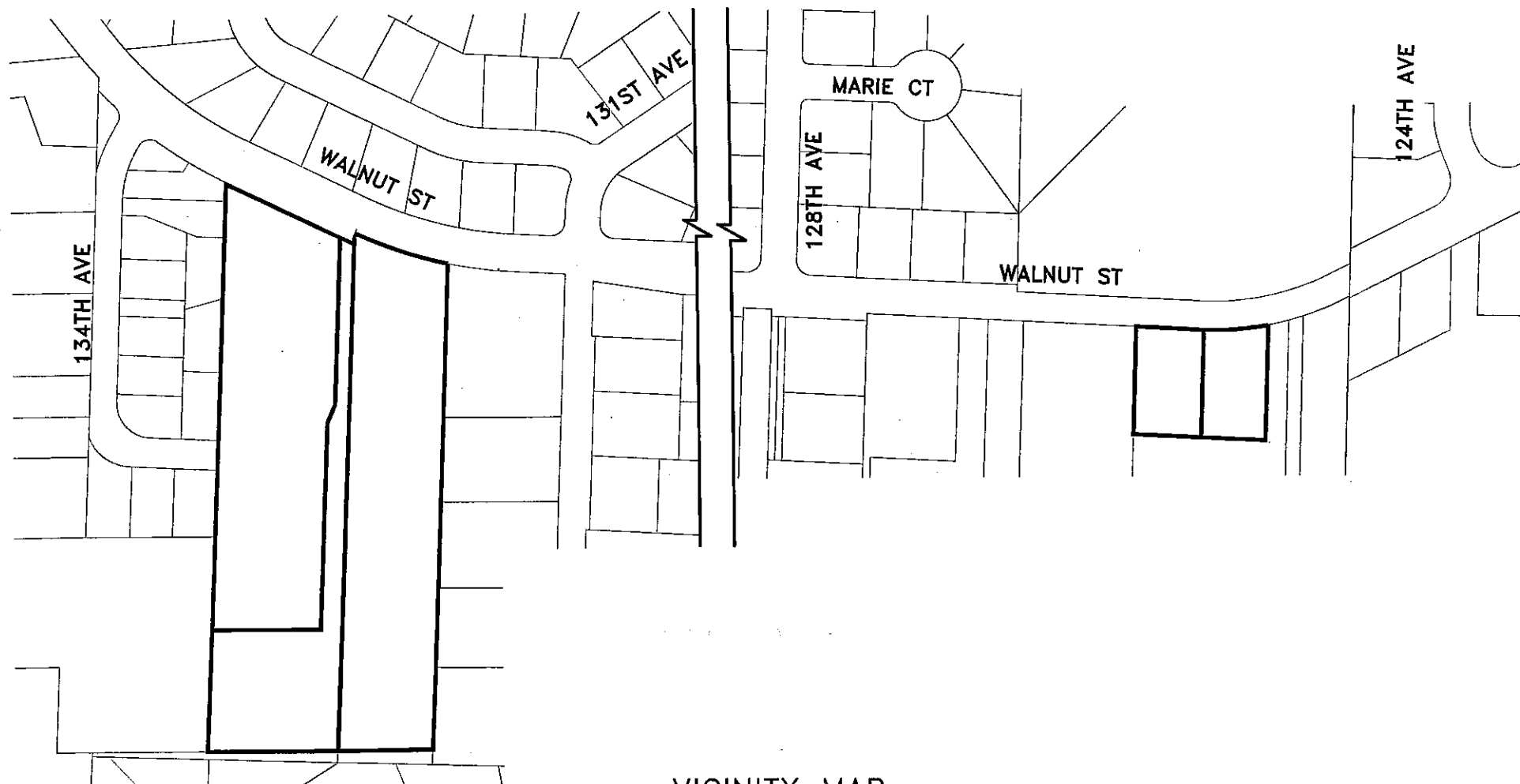
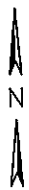


EXHIBIT B



WALNUT STREET  
SANITARY SEWER IMPROVEMENTS REIMBURSEMENT DISTRICT #33  
A PORTION OF THE NE 1/4 OF SECTION 4 T2S R1W W.M.



VICINITY MAP

# Communications Plan

## Sanitary Sewer Reimbursement District No. 33 (SW Walnut Street)

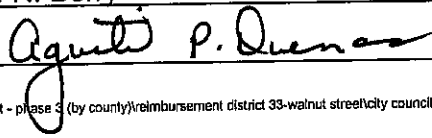
**Goal:** Construction of a Sanitary Sewer Extension for Reimbursement District No. 33.

**Timeline:** FY 04-05 Construction Season.

**Communication Goal:** To communicate to property owners within the Sanitary Sewer Reimbursement District, the estimated cost of connecting to the public sanitary sewer line, the construction schedule, and final cost for the Reimbursement District.

Date	Item	Description	Responsibility
3/18/04	General Meeting	Explain Program to Reimbursement District property owners proposed for FY04-05	Engineering Manager
9/9/04	Neighborhood Meeting Notice	Mail Meeting Notice to property owners within the Reimbursement District No. 32	Engineering Clerical Services
	Events Calendar	Post Meeting on Web Page Events Calendar	Engineering Clerical Services
9/22/04	Neighborhood Meeting	Meet with property owners to review estimated costs and construction activity.	Engineering Manager Consultant
11/8/04	Hearing Notice	Mail Notice of formation of Reimbursement District to Property Owners	Engineering Clerical Services
11/23/04	Formation Hearing	City Council reviews and forms proposed Sanitary Sewer District	City Engineer
12/4/04	Notice of Decision	Mail Notice of Decision to property owners within District	Engineering Clerical Services
	Lateral Locations	Confirm with property owners location of laterals	Inspector
	Construction Notice	Hang Construction Notice on doorknobs of property owners impacted by project	Inspector Contractor
	Construction Inspection	Inspector is available to receive and respond to complaints	Inspector
	Notice to property owners of final hearing	Send hearing notice, Resolution, property owner cost to each property owner.	Project Engineer Engineering Clerical Services
	Final Notice	Send approved Resolution with final costs to each property owner	Project Engineer Engineering Clerical Services

Prepared by: G. N. Berry

Approved by: 

\\eng\2004-2005 fy dpl\walnut street - phase 3 (by county)\reimbursement district 33-walnut street\city council\formation\11-23-04 reim dist 33 communications plan.doc

November 8, 2004

# NOTICE

## Informational Hearing

NOTICE IS HEREBY GIVEN  
THAT THE **TIGARD CITY COUNCIL**  
AT A MEETING ON  
**TUESDAY, November 23, 2004 AT 7:30 PM**  
IN THE TOWN HALL OF THE TIGARD CIVIC CENTER  
13125 SW HALL BLVD  
TIGARD OR 97223

TO CONSIDER THE FOLLOWING:

**Proposed Sanitary Sewer Reimbursement District No. 33**  
(SW Walnut Street)

The Tigard City Council will conduct an informational public hearing to hear testimony on the proposed Reimbursement District formed to install sewers in SW Walnut Street.

*Both public oral and written testimony is invited.*

The public hearing on this matter will be conducted as required by  
Section 13.09.060 of the Tigard Municipal Code.

Further information and the scheduled time for this item during the Council meeting may be obtained from the Engineering Department, 13125 SW Hall Blvd. Tigard, Oregon 97223, by calling 503 718-2468 or at [www.ci.tigard.or.us](http://www.ci.tigard.or.us).

## **Proposed Sanitary Sewer Reimbursement District No. 33 (SW Walnut Street)**

At this meeting, City Council will be requested to form a sewer reimbursement district to provide your neighborhood with sewer service. There is no requirement to connect to the sewer or pay any fee until connection is made. Each property owner's estimated fair share of the public sewer line is based on the area of the lot served and is summarized in the attached tables. This amount will be revised once construction is completed and final costs are determined. An annual increase of 6.05% simple interest will also be applied to this amount.

The amount each property owner will be required to pay will be limited to \$6,000 for connections completed within three years of City Council approval of the final City Engineer's Report following construction, in accordance with Resolution 01-46. Please note that this resolution also requires the owner to pay any fair share amounts that exceed \$15,000. Consequently, if the final fair share for an owner exceeds \$15,000, the owner would be required to pay \$6,000 plus the amount the fair share exceeds \$15,000. Under Resolution 03-55, payment of the amount in excess of \$15,000 may be deferred until the owner's lot is developed.

The owner would also be required to pay a connection fee of \$2,535 at the time of connection to the sewer. In addition, property owners are responsible for disconnecting their existing septic system according to Washington County rules and for any other modifications necessary to connect to the public sewer.

2S104AD-03900

CARLTON MARK M AND  
DEMELLO BRENDA G  
12600 SW WALNUT ST  
TIGARD, OR 97223

2S104AC-00200

HELM LAVELLE I TRUSTEE  
8075 SW WINCHESTER WAY  
WILSONVILLE, OR 97070

2S104AC-10900

LEARY KATHLEEN JOAN &  
MULLEN MARY JEAN &  
ZECHMANN BARBARA  
10020 SW JOHNSON  
TIGARD, OR 97223

2S104AD-04000

TRIGG CHARLES L  
12570 SW WALNUT  
TIGARD, OR 97223

2S104AC-10800

WEINANDY MICHAEL C &  
DONAHUE MARY KATHLEEN  
13300 SW WALNUT ST  
TIGARD, OR 97223

CITY OF TIGARD, OREGON

RESOLUTION NO. 01- 46

**A RESOLUTION REPEALING RESOLUTION NO. 98-51 AND ESTABLISHING A REVISED AND ENHANCED NEIGHBORHOOD SEWER REIMBURSEMENT DISTRICT INCENTIVE PROGRAM**

---

WHEREAS, the City Council has initiated the Neighborhood Sewer Extension Program to extend public sewers through Reimbursement Districts in accordance with TMC Chapter 13.09; and

WHEREAS, on October 13, 1998, the City Council established The Neighborhood Sewer Reimbursement District Incentive Program through Resolution No. 98-51 to encourage owners to connect to public sewer. The program was offered for a two-year period after which the program would be evaluated for continuation; and

WHEREAS, on September 26, 2000, the City Council extended The Neighborhood Sewer Reimbursement District Incentive Program an additional two years through Resolution No. 00-60; and

WHEREAS, City Council finds that residential areas that remain without sewer service should be provided with service within five years; and

WHEREAS, Council has directed that additional incentives should be made available to encourage owners to promptly connect to sewers once service is available and that owners who have paid for service provided by previously established districts of the Neighborhood Sewer Extension Program should receive the benefits of the additional incentives.

**NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:**

**SECTION 1:** Resolution No. 98-51 establishing the Neighborhood Sewer Reimbursement District Incentive Program is hereby repealed.

**SECTION 2:** A revised incentive program is hereby established for the Neighborhood Sewer Extension Program. This incentive program shall apply to sewer connections provided through the sewer reimbursement districts shown on the attached Table 1 or established thereafter. All connections qualifying under this program must be completed within **three years** after Council approval of the final City Engineer's Report following a public hearing conducted in accordance with TMC Section 13.09.105 or by **two years** from the date this resolution is passed, which ever is later, as shown on the attached Table 1.

**SECTION 3:** To the extent that the reimbursement fee determined in accordance with Section 13.09.040 does not exceed \$15,000, the amount to be reimbursed by an owner of a lot zoned single family residential shall not exceed \$6,000 per connection, provided that the lot owner complies with the provisions of Section 2. Any amount over \$15,000 shall be reimbursed by the owner. This applies only to the reimbursement fee for the sewer installation and not to the connection fee, which is still payable upon application for

sewer connection.

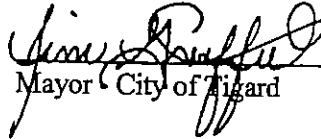
**SECTION 4:** The City Engineer's Report required by TMC Chapter 13.09 shall apply the provisions of this incentive program. Residential lot owners who do not connect to sewer in accordance with Section 2 shall pay the full reimbursement amount as determined by the final City Engineer's Report.

**SECTION 5:** Any person who has paid a reimbursement fee in excess of the fee required herein is entitled to reimbursement from the City. The amounts to be reimbursed and the persons to be paid shall be determined by the Finance Director and approved by the City Manager. There shall be a full explanation of any circumstances that require payment to any person who is not an original payer. The Finance Director shall make payment to all persons entitled to the refund no later than August 31, 2001.

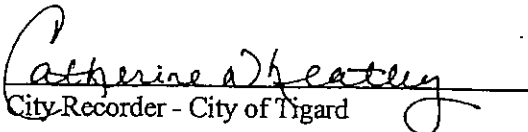
**SECTION 6:** The Sanitary Sewer Fund, which is the funding source for the Neighborhood Sewer Reimbursement District Program, shall provide the funding for the installation costs over \$6,000 up to a maximum of \$15,000 per connection.

**EFFECTIVE DATE:** July 10, 2001

**PASSED:** This 10<sup>th</sup> day of July 2001.

  
Mayor City of Tigard

**ATTEST:**

  
City Recorder - City of Tigard

I:\Citywide\Res\Resolution Revising the Neighborhood Sewer Incentive Program

**TABLE 1**  
**Reimbursement Districts with Refunds Available**

DISTRICT	FEE PER LOT	REIMBURSEMENT AVAILABLE	INCENTIVE PERIOD ENDS
TIGARD ST.No.8	5,193	No reimbursement available	
FAIRHAVEN ST/WYNo.9	4,506	No reimbursement available	
HILLVIEW ST No.11	8,000		July 11, 2003
106 <sup>TH</sup> & JOHNSON No.12	5,598	No reimbursement available	
100 <sup>TH</sup> & INEZ No.13	8,000		July 11,2003
WALNUT & TIEDEMAN No.14	8,000		July 11,2003
BEVELAND&HERMOSA No.15	5,036	No reimbursement available	
DELMONTE No.16	8,000		July 11,2003
O'MARA No.17	8,000		July 11,2003
WALNUT & 121 <sup>ST</sup> No.18	-	Amount to be reimbursed will be	Throo years from service availability
ROSE VISTA No.20	-	determined once final costs are determined.	

\* Currently being constructed



CITY OF TIGARD, OREGON

RESOLUTION NO. 03- 55

**A RESOLUTION PROVIDING ADDITIONAL INCENTIVES TO THE NEIGHBORHOOD SEWER REIMBURSEMENT DISTRICT INCENTIVE PROGRAM (RESOLUTION NO. 01 - 46).**

---

WHEREAS, the City Council has initiated the Neighborhood Sewer Extension Program to extend public sewers through Reimbursement Districts in accordance with TMC Chapter 13.09; and

WHEREAS, on July 10, 2001, the City Council established the Revised and Enhanced Neighborhood Sewer Reimbursement District Incentive Program through Resolution No. 01-46 to encourage owners to connect to public sewer within three-years following construction of sewers; and

WHEREAS, Council has directed that additional incentives should be made available to encourage owners of large lots to promptly connect to sewers once service is available.

**NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:**

- SECTION 1: In addition to the incentives provided by Resolution No. 01-46, any person whose reimbursement fee exceeds \$15,000 and wishes to connect a single family home or duplex to a sewer constructed through a reimbursement district may defer payment of the portion of the reimbursement fee that exceeds \$15,000, as required by Section 3 of Resolution No. 01-46, until the lot is partitioned or otherwise developed in accordance with a land use permit. The land use permit shall not be issued until payment of the deferred amount is made. The Annual Fee Adjustment required by TMC Section 13.09.115 shall not apply to payment of this deferred amount.
- SECTION 2: Lots that qualify under Section 1, within reimbursement districts that have exceeded the three-year period for connection, and have not connected to sewer can connect the existing structure, pay a reimbursement fee of \$6,000, and defer payment of the portion of the reimbursement fee that exceeds \$15,000 if connection to the sewer is completed within one year after the effective date of this resolution.
- SECTION 3: Vacant lots improved with a single family home or duplex during the term of the reimbursement district shall qualify for the provisions of Resolution No. 01-46, pay \$6,000 if the fee exceeds that amount, and may defer payment of the portion of the reimbursement fee that exceeds \$15,000 as provided by Section 1.
- SECTION 4: Vacant lots that are partitioned, subdivided, or otherwise developed during the life of the reimbursement district shall qualify for the provisions of Resolution No. 01-46, shall pay a reimbursement fee of \$6,000, and shall pay any amount due over \$15,000 at the time of development. The Annual Fee Adjustment required by TMC Section 13.09.115 shall not apply to payments made under this section.
- SECTION 5: The owner of any lot for which deferred payment is requested must enter into an agreement with the City, on a form prepared by the City Engineer, acknowledging the

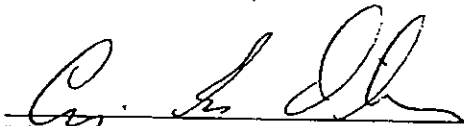
owner's and owner's successors obligation to pay the deferred amount as described in Section 1. The City Recorder shall cause the agreement to be filed in the office of the County Recorder to provide notice to potential purchasers of the lot. The recording will not create a lien. Failure to make such a recording shall not affect the obligation to pay the deferred amount.

SECTION 6: Any person who qualifies under Section 1 and has paid a reimbursement fee for the portion of the reimbursement fee in excess of \$15,000 is entitled to reimbursement for that amount from the City upon request. The amounts to be reimbursed and the persons to be paid shall be determined by the Finance Director and approved by the City Manager. There shall be a full explanation of any circumstances that require payment to any person who is not an original payer. Any person requesting a refund must sign an agreement similar to that described in Section 5 acknowledging the obligation to pay the refunded amount upon partitioning or developing the lot.

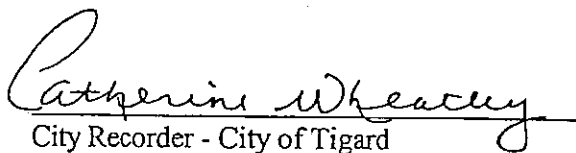
SECTION 7: The Sanitary Sewer Fund continues to remain the funding source for the Neighborhood Sewer Reimbursement District Program and shall provide the funding for the installation costs over \$6,000 up to a maximum of \$15,000 per connection and for any deferred payment permitted by this resolution.

SECTION 8: This resolution is effective immediately upon passage.

PASSED: This 14<sup>th</sup> day of October 2003.

  
\_\_\_\_\_  
~~Mayor - City of Tigard -~~  
Craig E. Dirksen, Council President

ATTEST:

  
\_\_\_\_\_  
City Recorder - City of Tigard

(\\eng\reg\reimbursement\distriks\revisions res 01-48 aug 26 03\oct 14 03 council\10-14-03 addition to res 1-46 res.doc

# **INTERGOVERNMENTAL AGREEMENT**

## **MAJOR STREETS TRANSPORTATION IMPROVEMENT PROGRAM FOR ROADWAY IMPROVEMENTS TO:**

### **SW WALNUT STREET: SW 121<sup>st</sup> AVENUE to SW 135th AVENUE CITY OF TIGARD**

THIS AGREEMENT is made and entered into by and between WASHINGTON COUNTY, acting by and through its Elected Officials, hereinafter referred to as "COUNTY"; and the CITY OF TIGARD, acting by and through its City Council, hereinafter referred to as "CITY."

#### **WITNESSETH**

#### **ARTICLE 1 - RECITALS**

WHEREAS, Washington County voters in May, 1995, approved a Major Streets Transportation Improvement Program - Six Year Serial Levy for Roads (MSTIP 3); and in May 1997, the voters approved Measure 50, which converted the MSTIP3 levy to a part of the COUNTY permanent rate; and

WHEREAS, one of the MSTIP 3 projects is the construction of improvements to SW Walnut Street, a City of Tigard major collector road between SW 121<sup>st</sup> Avenue and SW Gaarde Street and an arterial between SW Gaarde Street and SW 135th Avenue, herein after referred to as the "PROJECT", as shown generally on the attached Exhibit A; and

WHEREAS, on June 23, 1998, the Board of County Commissioners (BCC) adopted a revised schedule for construction of the MSTIP 3 projects and indicated its intent to proceed with the MSTIP3 projects on a revised schedule in light of the fiscal impact of Measure 50; and

WHEREAS, ORS 190.010 authorizes agencies to enter into intergovernmental agreements for the performance of any or all functions and activities that a party to the agreement has the authority to perform; and

WHEREAS, CITY desires to design and construct utility improvement work (waterline, sanitary sewer, and franchise underground conduits) and paving work within the project limits along SW Walnut Street, in conjunction with the PROJECT. The said CITY waterline, sanitary sewer, franchise underground conduits, and paving improvements are herein after referred to as "Utility and Paving Improvement Work" and are further described and shown on attached Exhibit A; and,

WHEREAS, CITY has requested that the design, construction, and inspection of the Utility and Road Improvement Work be added to the PROJECT, and CITY agrees to pay for such requested utility improvement work; and,

WHEREAS, under such authority, it is the mutual desire of the COUNTY and CITY to enter into such an Agreement to cooperate in the design and construction of the improvements to the waterline, sanitary sewer, franchise underground conduits and paving as part of the PROJECT, with the allocation of responsibilities as detailed below;

NOW, THEREFORE, the premise being in general as stated in the foregoing recitals, and in consideration of the terms, conditions and covenants as set forth below, the parties hereto agree as follows:

## **ARTICLE 2 – WASHINGTON COUNTY OBLIGATIONS**

1. COUNTY shall, upon execution of this Agreement, assign a liaison person to be responsible for coordination of PROJECT with CITY.
2. COUNTY shall perform, or cause to be performed, all actions necessary for the design and construction of the PROJECT (including the Utility and Paving Improvement Work), project management, design and construction engineering, right-of-way acquisition, regulatory and land use permits and approvals, contract administration, and construction management. COUNTY shall coordinate the design of, advertise for, award, and administer the construction contract for the PROJECT.
3. COUNTY shall review Utility and Paving Improvement Work plans, bid items, quantities and technical specifications and incorporate the Utility Improvement Work as specific bid items into the bid documents for the PROJECT. The COUNTY reserves the right to require alignment or other design modifications to the Utility and Paving Improvement Work to minimize impacts to the PROJECT.
4. COUNTY shall provide CITY with the opportunity for design review of final plans prior to bidding.
5. COUNTY shall, following the bid opening, notify the CITY of the amount of the construction cost of the Utility and Paving Improvement Work as contained in the bid and provide CITY the opportunity for review of the contract bid proposal prior to contract award.
6. COUNTY shall provide inspection services for Utility and Paving Improvement Work trench excavation and backfill, and CITY shall provide inspection and testing services for Utility and Paving Improvement Work installation on behalf of the CITY. Coordination between the COUNTY and CITY inspection services shall be as set forth under Article 3 – City Obligations.
7. COUNTY shall provide a final cost accounting for the PROJECT, including all internal and external costs, to the CITY within 90 days of final acceptance and payment to the contractor.

8. COUNTY shall perform actions regarding compensation as set forth in Article 4 – Compensation.

### **ARTICLE 3 - CITY OF TIGARD OBLIGATIONS**

1. CITY shall, upon execution of this Agreement, assign a liaison person to be responsible for coordination of PROJECT with COUNTY.
2. CITY shall provide inspection and testing of Utility and Paving Improvement Work installation in coordination with the COUNTY. CITY shall monitor all "acceptance testing" conducted by the construction contractor as specified by the construction documents or franchise utility owner, which may include disinfection, pressure testing, and vault and valve box installation. Testing and monitoring shall be at the City's expense.
3. CITY shall perform actions regarding compensation as set forth in Article 4 - Compensation.

### **ARTICLE 4 - COMPENSATION**

1. DESIGN: As design work upon the PROJECT is performed, County shall, on a quarterly basis, prepare and submit design invoices to CITY for the cost of the work for Utility and Paving Improvement Work. Estimated design costs are \$67,536 for Waterline Improvements design; \$15,612 for Sanitary Sewer Improvements design; \$73,154 for Franchise Underground Conduits design, and \$0 for Paving Improvements, for a total design cost of \$156,302.

Within thirty days of the execution of this agreement, CITY shall pay the COUNTY the sum of \$39,076 (approximately one-fourth of estimated Utility and Paving Improvement Work design). Upon depletion, the quarterly statement from the COUNTY shall include the amount due from the CITY for Utility and Paving Improvement Work. CITY shall pay COUNTY the amount due within thirty (30) days of its receipt of the billing.

Notwithstanding, the estimate of the costs shown above, the CITY shall reimburse the COUNTY for the actual amount of its cost incurred for the design of the Utility and Paving Improvement Work.

2. CONSTRUCTION: As construction work upon the PROJECT is performed, COUNTY shall, on a quarterly basis, prepare and submit construction invoices to the CITY for the construction of the Utility and Paving Improvement Work. Estimated construction costs are \$532,000 for Waterline Improvements; \$20,000 for Sanitary Sewer Improvements; \$588,750 for Franchise Underground Conduits; and \$42,017 for Paving Improvements, for a construction total of \$1,182,767.

Within thirty days of the execution of the construction contract, CITY shall pay the COUNTY the sum of \$295,692 (approximately one-fourth of estimated Utility and Paving Improvement Work). Upon depletion, the quarterly statement from the COUNTY shall include the amount due from the CITY for Utility and Paving Improvement Work. CITY shall pay COUNTY the amount due within thirty (30) days of its receipt of the billing.

In addition to Utility and Paving Improvement Work bid items, CITY shall also pay COUNTY any easement acquisition cost associated with the Utility and Paving Improvement Work, an allocated share of the costs of applicable lump sum contract items (i.e. mobilization, erosion control), extra work required for the Utility and Paving Improvement Work and non-construction costs. Non-construction costs include the cost of COUNTY services including project management, surveying, inspection and construction contract administration which shall be calculated at a flat rate of fifteen percent (15%) of the Utility and Paving Improvement Work construction costs.

3. CITY and COUNTY understand that the design and construction costs are estimates and are used to determine project budgets and deposit amounts used within this agreement. Final costs will be based on the actual contract amount of the schedule of prices and quantities used and installed. Final payments made by the CITY to the COUNTY related to this PROJECT shall be based on actual design invoices, actual bid prices, construction quantities and non-construction costs.
4. COUNTY shall provide the CITY with a final statement of Utility and Paving Improvement Work expenses within ninety (90) days of the completion of the final design phase. Within ninety (90) days after the completion of the construction contract, the COUNTY shall provide the CITY with a final statement of Utility and Paving Improvement Work and bill the CITY for any remaining costs in excess of the deposits made, or refund any excess to the CITY. Upon the completion of the construction and completion of Record Drawings, the COUNTY shall deliver one set of reproducible Record Drawings related to the Utility and Paving Improvement Work, to the CITY, for their files.

## ARTICLE 5 – PROJECT DEFINITION AND SCOPE

1. DEFINITION: The PROJECT shall be defined as the road improvements to SW Walnut Street, between SW 121<sup>st</sup> and SW 135<sup>th</sup> Avenues, and is the third phase of a three-phase project to make improvements to the section of Walnut Street from 121<sup>st</sup> Avenue to 135<sup>th</sup> Avenue. All construction shall meet CITY standards.

2. SCOPE:

The scope of improvements associated with the PROJECT shall include, but not be limited to:

- A) Reconstruction and widening of SW Walnut Street to accommodate three lanes of traffic (two 11-foot travel lanes with a 12-foot center turn lane), two 5-foot bike lanes, curbs, gutters and 6-foot sidewalks along both sides from SW 121<sup>st</sup> Avenue to SW 135<sup>th</sup> Avenue.
- B) All required storm drainage improvements including water quality facilities, grading, landscaping, illumination, signing, striping and other associated work.
- C) CITY desired elements for improvements to existing utility facilities, including upgrades to waterlines, sanitary sewers and installation of franchise underground conduits. Also included is the overlay of a portion of SW Walnut Street between SW 131<sup>st</sup> and SW 129<sup>th</sup> Avenues.

**ARTICLE 6 - GENERAL PROVISIONS**

1. LAWS OF OREGON

The parties agree to abide by all applicable laws and regulations regarding the handling and expenditure of public funds. This Agreement shall be governed by the laws of the State of Oregon. All provisions required by ORS Chapter 279 to be included in public contracts are hereby incorporated by reference and made a part of this Agreement as if fully set forth herein.

2. DEFAULT

Either party shall be deemed to be in default if it fails to comply with any provision of this Agreement. CITY and COUNTY agree time is of the essence in the performance of any of the obligations within this Agreement. Complaining party shall provide the other party with written notice of default and allow thirty (30) days within which to cure the defect. CITY shall pay the COUNTY for all costs incurred for satisfactorily completed and authorized work up to the time of default. CITY or COUNTY shall be liable for all costs and damages arising from their default.

3. INDEMNIFICATION

This Agreement is for the benefit of the parties only. Each party agrees to indemnify and hold the other harmless, to include their respective officers, employees, agents and representatives, from and against all claims, demands and causes of actions and suits of any kind or nature for personal injury, death or damage to property on account of or rising out of services performed, the omission of services or in any way resulting from the acts or omissions of the parties so

indemnifying and/or its officers, employees, agents or representatives. Indemnification is subject to and shall not exceed the limits of liability of the Oregon Tort Claims Act (ORS 30.260 through 30.003). In addition, each party shall be solely responsible for any contract claims, delay damages or similar items arising from or caused by the action or inaction of the party.

4. DOCUMENTS ARE PUBLIC PROPERTY

All records, reports, data, documents, systems, and concepts, whether in the form of writings, figures, graphs, or models that are prepared or developed in connection with the PROJECT, shall become public property.

5. MODIFICATION OF AGREEMENT

No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in specific instances and for the specific purpose given.

6. DISPUTE RESOLUTION

The parties agree to use their best efforts to resolve any dispute arising out of this Agreement by mediation. If mediation is not successful within 30 days, the parties are free to utilize any legal remedy they may have.

7. SEVERABILITY

If any terms or provisions of this Agreement or the application thereof to any person or circumstance shall, to any extent, be determined by a court to be invalid or unenforceable, the remainder of this Agreement and the application of those terms and provisions shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

8. NONDISCRIMINATION

No person shall be denied or subjected to discrimination in receipt of the benefits of any services or activities made possible by or resulting from this Agreement on the grounds of race, color, religion, gender, sexual orientation, national origin, disability, age or marital status. Any violation of this provision shall be considered a material defect and shall be grounds for cancellation, termination or suspension in whole or in part by the COUNTY.

9. INTEGRATION

This Agreement includes the entire agreement of the parties and supersedes any prior discussions or agreements regarding the same subject. There are not understandings, agreements, or representations, oral or written, not specified herein regarding this contract.



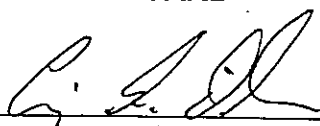
## ARTICLE 7 - TERM OF AGREEMENT

1. The term of this Agreement shall be from the date of execution for four (4) years.
2. This Agreement may be amended or extended for periods of up to one year by consent of the parties, subject to provisions of this Agreement. Except for breach, it may be canceled or terminated for any reason beyond the control of the parties.

IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year hereinafter written.


DONE AND DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

CITY OF TIGARD

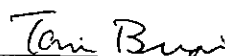
  
\_\_\_\_\_  
Mayor

Date: February 10, 2004

ATTEST:

  
\_\_\_\_\_  
Deputy City Recorder

WASHINGTON COUNTY, OREGON

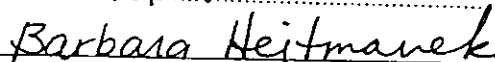
  
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Chair

Date: 2-24-04

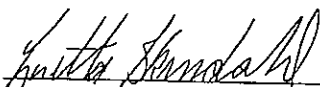
APPROVED WASHINGTON COUNTY  
BOARD OF COMMISSIONERS

MINUTE ORDER # 09-10

DATE 11/6/04

  
\_\_\_\_\_  
Recording Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Loretta S. Skurdahl  
Senior Assistant County Counsel

AGENDA ITEM # 8  
FOR AGENDA OF 11/23/04

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Conduct Public Hearing - Revised Parks System Development Charge Methodology and Rates

PREPARED BY: Dan Plaza, 2590 DEPT HEAD OK TS CITY MGR OK EUN for WAM

ISSUE BEFORE THE COUNCIL

Conduct Public Hearing on Resolution Revising Parks SDC Methodology and Rates

STAFF RECOMMENDATION

Council conduct the public hearing.

INFORMATION SUMMARY

The City of Tigard's Parks SDC methodology must be updated in order to comply with new requirements adopted into law during the 2003 legislative session. The revision not only updates the methodology, but it also increases the rates as of January 1, 2005. On September 21, 2004, the Council discussed the revising of the Parks SDC Methodology and authorized staff to publicly release the revised "draft" of the SDC Methodology which began the process for this public hearing and adoption of the Revised Parks SDCs. Notification requirements were met when the City notified the Home Builders Association of Metropolitan Portland of this public hearing. As required by law, a draft of the Revised Parks SDC Methodology was made available for public review on September 24, 2004. A legal notice, announcing the public hearing, was published in the Tigard Times on November 18, 2004, and posted in the City Hall Lobby bulletin board.

The Public Works Director met with the Chair of the Home Builders Board and its Director on October 27. The Home Builders' Director stated that he was familiar with the City's consultant, Don Ganer, and had no problem with the methodology used in the revision. The Home Builders submitted a request for additional information regarding the CIP list and the Bull Mountain White Paper, Parks and Open Spaces. Staff provided that information. The Home Builders also state concerns regarding potential of double charging in situations where tree mitigation money would be used to plant trees in city parks or open spaces. The Home Builders further stated that they had a concern both with the number of acres and the total cost of greenway acquisition identified in the SDC update process. The City consultant and staff have analyzed these issues and have prepared an adjustment to the methodology that, if accepted by Council, would modify the proposed SDC charges downward by 3.5% thus resolving the double charge issue.

In regard to the green space concern staff is recommending no change to the proposed methodology. Staff is basing this recommendation on the fact that city residents have consistently indicated a desire to increase green spaces in the City. Staff further has concluded that Oregon law already allows for appropriate credits against SDCs for donation of green ways made by developers. The rates, if adopted by Council, will generate approximately \$5,588,988 in additional SDC revenue over the next five-years (does not include Bull Mountain, which, if annexed,

would have generated an additional \$5,000,000 in SDC revenue over the next five-years). It should be noted that, upon implementation, SDC rates for a single-family home will increase from \$1,852 to \$3,893, or \$3,753 if the Council accepts adjustment for tree mitigation revenue. The entire rate schedule is published in the attached Methodology Report. The process necessary to adopt this new SDC Methodology is: 1) conduct a public hearing at the November 23 Council meeting, 2) consider the Home Builders request and the proposed remedy, and direct staff regarding the Council's intentions in this matter, 3) adopt a resolution and an ordinance modifying the TMC at the December 14 Council meeting.

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#### OTHER ALTERNATIVES CONSIDERED

Not conduct a hearing.

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#### VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

"Tigard Beyond Tomorrow" Council Visioning Process – Urban and Public Services – Goal 1, Strategy 1 – Acquire and Develop Park land

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#### ATTACHMENT LIST

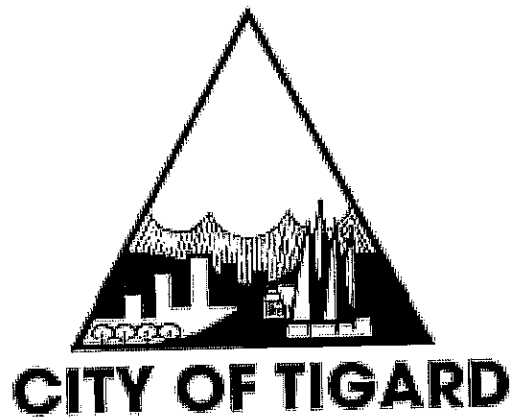
Attachment 1 – Revised Parks System Development Charges Methodology and Rates

Attachment 2 – Don Ganer Memo dated November 9, 2004, discussing Home Builders Association Issues

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#### FISCAL NOTES

Under the current methodology the City anticipates raising approximately \$2.3M over the next 5-year period. Under the revised rates, it is estimated that the City will raise approximately \$7.9M over the same period.



**PARKS AND RECREATION  
SYSTEM DEVELOPMENT CHARGES  
METHODOLOGY UPDATE**

REVISED DRAFT as of  
November 10, 2004

PO Box 91491 • Portland, OR 97291 • 503-690-8981 • [DGaner@GanerAssociates.com](mailto:DGaner@GanerAssociates.com)

**Don  
Ganer &  
Associates, Inc.**

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# CITY OF TIGARD

## Parks and Recreation System Development Charges Methodology Update

### 1.0 INTRODUCTION

System Development Charges (SDCs) are one-time fees charged to new development to help pay a portion of the costs associated with building capital facilities to meet needs created by growth. SDCs are authorized for five types of capital facilities including transportation, water, sewer, stormwater, and parks and recreation. The City of Tigard adopted the current parks and recreation SDCs methodology in 1996, and updated the parks SDCs in March 2001 to include annual rate adjustments to account for changes in costs.

In July 2004, the City engaged Don Ganer & Associates, Inc. to update the City's Parks and Recreation SDC methodology to reflect an updated Parks Capacity Improvements Program including selected needs identified in the Tigard Park System Master Plan (July 1999) and in the Bull Mountain Annexation White Paper on Parks and Open Spaces (May 28, 2004). These documents consider parks needs for current city boundaries and the urban services planning area for which the City of Tigard is responsible under agreement with Washington County.

Section 2.0 of this report presents authority and background information including (1) legislative authority for SDCs; (2) an explanation of "improvement fee" and "reimbursement fee" SDCs; (3) requirements and options for credits, exemptions and discounts; and (4) alternative methodology approaches. Section 3.0 presents the methodology used to update the Parks and Recreation SDCs, section 4.0 presents the calculation of Residential Parks and Recreation SDC Rates, section 5.0 presents the calculation of Non-Residential Parks and Recreation SDC Rates, and section 6.0 discusses annual adjustment of the SDC rates. The Parks and Recreation SDC Parks Capacity Improvements Program (PCIP) listing of projects that may be funded with SDC revenues is included as Appendix A to this report.

## 2.0 AUTHORITY AND BACKGROUND INFORMATION

### ***A. Legislative Authority***

The source of authority for the adoption of SDCs is found both in state statute and in the City's own plenary authority to adopt this type of fee. While SDCs have been in use in Oregon since the mid-1970's, State legislation regarding SDCs was not adopted until 1989, when the Oregon Systems Development Act (ORS 223.297 - 223.314) was passed. The purpose of this Act was to "...provide a uniform framework for the imposition of system development charges..". Additions and modifications to the Oregon Systems Development Act have been made in 1993, 1999, 2001, and 2003. Together, these pieces of legislation require local governments that enact SDCs to:

- adopt SDCs by ordinance or resolution;
- develop a methodology outlining how the SDCs were developed;
- adopt a capital improvements program to designate capital improvements that can be funded with "improvement fee" SDC revenues;
- provide credit against the amount of the SDC for the construction of certain "qualified public improvements";
- separately account for and report receipt and expenditure of SDC revenues, and develop procedures for challenging expenditures; and
- use SDC revenues only for capital expenditures (operations and maintenance uses are prohibited).

### ***B. "Improvement fee" and "Reimbursement fee" SDCs***

The Oregon Systems Development Act provides for the imposition of two types of SDCs: (1) "improvement fee" SDCs, and (2) "reimbursement fee" SDCs. "Improvement fee" SDCs may be charged for new capital improvements that will increase capacity. Revenues from "improvement fee" SDCs may be spent only on capacity-increasing capital improvements identified in the required capital improvements program that lists each project, and the expected timing, cost, and growth-required percentage of each project. "Reimbursement fee" SDCs may be charged for the costs of existing capital facilities if "excess capacity" is available to accommodate growth. Revenues from "reimbursement fees" may be used on *any* capital improvement project, including major repairs, upgrades, or renovations. Capital improvements funded with "reimbursement fee" SDCs do not need to increase capacity, but they must be included in the list of projects to be funded with SDC revenues.



## *C. Requirements and Options for Credits, Exemptions, and Discounts*

### (1) Credits

A credit is a reduction in the amount of the SDC for a specific development. The Oregon SDC Act requires that credit be allowed for the construction of a "qualified public improvement" which (1) is required as a condition of development approval, (2) is identified in the City's capital improvements program, and (3) either is not located on or contiguous to property that is the subject of development approval, or is located on or contiguous to such property and is required to be built larger or with greater capacity than is necessary for the particular development project. The credit for a qualified public improvement may only be applied against an SDC for the same type of improvement (e.g., a parks and recreation improvement can only be used for a credit for a parks and recreation SDC), and may be granted only for the cost of that portion of an improvement which exceeds the minimum standard facility size or capacity needed to serve the particular project. For multi-phase projects, any excess credit may be applied against that accrue in subsequent phases of the original development project.

In addition to these required credits, the City may, if it so chooses, provide a greater credit, establish a system providing for the transferability of credits, provide a credit for a capital improvement not identified in the City's capital improvements program, or provide a share of the cost of an improvement by other means (i.e., partnerships, other City revenues, etc.).

### (2) Exemptions

The City may "exempt" certain types of development, such as "non-residential development" from the requirement to pay parks SDCs. Exemptions reduce SDC revenues and, therefore, increase the amounts that must come from other sources, such as bonds and property taxes.

### (3) Discounts

The City may "discount" the amount of the SDC by reducing the portion of growth-required improvements to be funded with SDCs. A discount in the SDC may also be applied on a pro-rata basis to any identified deficiencies to be funded from non-SDC sources. For example, the City may decide to charge new development an SDC rate sufficient to pay for some types of facilities but not for others (i.e., neighborhood parks but not trails, etc.), or to pay only a percentage (i.e., 80%, 50%, etc.) of identified growth-required costs. The portion of growth-required costs to be funded with SDCs must be identified in the City's capital improvements program.

Because discounts reduce SDC revenues, they increase the amounts that must come from other sources, such as bonds or general fund contributions, in order to achieve or maintain adopted levels of service.

### ***D. Alternative Methodology Approaches***

There are three basic approaches used to develop improvement fee SDCs; "standards-driven", "improvements-driven", and "combination/hybrid".

#### (1) Standards-Driven Approach

The "standards-driven" approach is based on the application of Level of Service (LOS) Standards for facilities such as neighborhood parks, community parks, etc. Facility needs are determined by applying the LOS Standards to projected future population and employment, as applicable. SDC-eligible amounts are calculated based on the costs of facilities needed to serve growth. This approach works best where current and planned levels of service have been identified but no specific list of projects is available.

## (2) Improvements-Driven Approach

The “improvements-driven” approach is based on a specific list of planned capacity-increasing capital improvements. The portion of each project that is attributable to growth is determined, and the SDC-eligible costs are calculated by dividing the total costs of growth-required projects by the projected increase in population and employment, as applicable. This approach works best where a detailed master plan or project list is available and the benefits of projects can be readily apportioned between growth and current users.

## (3) Combination/Hybrid Approach

The combination/hybrid-approach includes elements of both the “improvements-driven” and “standards-driven” approaches. Level of Service standards may be used to create a list of planned capacity-increasing projects, and the growth-required portions of projects can then be used as the basis for determining SDC-eligible costs. This approach works best where Levels of Service have been identified and the benefits of individual projects are not easily apportioned between growth and current users.

## 3.0 PARKS AND RECREATION SDC METHODOLOGY

The Improvements-Driven approach has been used to develop the updated Parks and Recreation SDC methodology. The Tigard Park System Master Plan (July 1999) and the Bull Mountain Annexation White Paper on Parks and Open Spaces (May 28, 2004) identify projects designed to repair deficiencies and address growth needs within the City and the adjacent urban services planning area. The SDC Parks Capacity Improvements Program (Appendix A) includes these projects and identifies the growth-required portion (if any), the estimated timing, and the estimated cost of each project.

Parks and recreation facilities benefit City residents, businesses, non-resident employees, and visitors. The methodology used to update the City's Parks and Recreation SDCs establishes the required connection between the demands of growth and the SDC by identifying specific types of parks and recreation facilities and analyzing the proportionate need of each type of facility for use by residents and employees. The SDCs to be paid by a development meet statutory requirements because they are based on the nature of the development and the extent of the impact of the development on the types of parks and recreation facilities for which they are charged. The Parks and Recreation SDCs are based on population and employment, and the SDC rates are calculated based on the specific impact a development is expected to have on the City's population and employment. For facilities that are not generally used by employees (e.g., neighborhood parks), only a residential parks and recreation SDC may be charged. For facilities that benefit both residents and employees (i.e., community parks, etc.), parks and recreation SDCs may be charged for both residential and non-residential development.

#### ***A. Population and Employment Growth***

The Parks and Recreation SDCs are based on costs per "capita" (person). Estimates of current and projected population and employment within the City of Tigard and the adjacent urban services planning area were calculated using data from Metro and the Population Research Center at Portland State University.

**TABLE 3.1**

**PROJECTED POPULATION AND EMPLOYMENT  
INCREASES FROM NEW DEVELOPMENT (2003 - 2008)**

	<u>2008 (Projected)</u>		<u>Estimated 2003</u>		<u>Projected Increase</u>
Population:	58,367	-	53,099	=	5,268
Employment:	41,575	-	38,441	=	3,134

#### ***B. Persons Per Dwelling Unit***

The Residential Parks and Recreation SDC rates are based on costs per capita and are calculated based on the number of persons per dwelling unit. Dwelling units typically house different numbers of persons depending on the type of unit (i.e., single family, multi-family, etc.). To determine the appropriate number of persons per dwelling unit, official U.S. Census data gathered for Tigard in 2000 was analyzed, and the resulting calculations are displayed in Table 3.2, page 7.

**TABLE 3.2**

**CITY OF TIGARD  
AVERAGE PERSONS PER DWELLING UNIT**

<u>Type of Unit</u>	<u>2000 Census Avg. Persons Per Dwelling Unit</u>
Single-Family	2.67
Multi-Family	1.86
Manufactured Housing	1.81

***C. Benefit of Facilities***

Facility needs must consider the proportionate benefit each type of facility has for residents and employees. A resident is any person whose place of residence is within Tigard and the adjacent urban services planning area. An employee is any person who receives remuneration for services, and whose services are directed and controlled either by the employee (self-employed) or by another person or organization. The parks and recreation facilities discussed in this report are defined in the Tigard Park System Master Plan (July 1999). For purposes of this report, neighborhood parks are considered to be used primarily by residents, rather than by employees and other non-residents, and; therefore, the identified needs for these types of facilities are based only on population and do not consider employment. For all other facilities including community parks, linear parks, etc., both population and employment were considered when identifying facility needs.

While parks and recreation facilities benefit both residents and employees, the amount of time these facilities are available for use by employees is not the same as for residents; an employee does not create demands for facilities equal to those created by a resident. In order to equitably apportion the need for facilities between employees and residents, an employee-to-resident demand ratio was developed based on the potential time these facilities are available for use.

First, estimates for the average number of hours per day these facilities are available for use were identified. Children's ages, adult employment status, work location (inside or outside the City), and seasonal variances were taken into account and are displayed in Table 3.3, page 8.

**TABLE 3.3**  
**ESTIMATES OF AVERAGE DAILY**  
**AVAILABILITY OF PARKS AND RECREATION FACILITIES**

	<u>Non-Employed Adult (18+ )</u>	<u>5-17 Kids</u>	<u>Live In/ Work In</u>	<u>Live In/ Work Out</u>	<u>Live Out/ Work In</u>	<u>Total</u>
<b>Summer (June-Sept)</b>						
<u>Weekday</u>						
Before Work			1		1	2
Meals/Breaks			1		1	2
After Work			2		2	4
Other Leisure	12	12	2	2		28
Sub-Total	12	12	6	2	4	36
<u>Weekend</u>						
Leisure	12	12	12	12	0	48
Sub-Total	12	12	12	12	0	48
Summer Hrs/Day	12	12	7.71	4.86	2.86	39.43
<b>Spring/Fall (April-May, Oct-Nov)</b>						
<u>Weekday</u>						
Before Work			0.5		0.5	1
Meals/Breaks			1		1	2
After Work			1		1	2
Other Leisure	10	4	2	2		18
Sub-Total	10	4	4.5	2	2.5	23
<u>Weekend</u>						
Leisure	10	10	10	10	0	40
Sub-Total	10	10	10	10	0	40
Spring/Fall Hours/Day	10	5.71	6.07	4.29	1.79	27.86
<b>Winter (December-March)</b>						
<u>Weekday</u>						
Before Work			0.5		0.5	1
Meals/Breaks			1		1	2
After Work			0.5		0.5	1
Other Leisure	8	2	1	1		12
Sub-Total	8	2	3	1	2	16
<u>Weekend</u>						
Leisure	8	8	8	8	0	32
Sub-Total	8	8	8	8	0	32
Winter Hours/Day	8	3.71	4.43	3	1.43	20.57
<b>Annual Weighted Avg. Hours</b>	<b>10</b>	<b>7.14</b>	<b>6.07</b>	<b>4.05</b>	<b>2.02</b>	<b>29.29</b>

The Annual Weighted Average Hours of availability was calculated for each category of residents and employees using the following formula:

$$(\text{Summer Hours/Day} \times 3 [\text{months}] + \text{Spring/Fall Hours/Day} \times 6 + \text{Winter Hours/Day} \times 3) / 12$$

Next, the Annual Weighted Average Hours (from Table 3.3, page 8) were applied to population and employment data (2000 Census) to determine the Total Annual Weighted Average Hours for each category of Resident and Employee. The results are displayed in Table 3.4.

**TABLE 3.4**

**TOTAL ANNUAL AVAILABILITY  
OF PARKS AND RECREATION FACILITIES**

	<u>Non-Employed Adult (18+)</u>	<u>5-17 Kids</u>	<u>Live In/ Work In</u>	<u>Live In/ Work Out</u>	<u>Live Out/ Work In</u>	<u>Total</u>
Population & Employment Data (2000 Census)	9,140	7,270	5,798	15,821	27,382	65,411
Annual Weighted Avg. Hours	<u>10</u>	<u>7.14</u>	<u>6.07</u>	<u>4.05</u>	<u>2.02</u>	<u>29.29</u>
Tot. Annual Weighted Avg. Hrs.	91,400	51,929	35,202	64,037	55,416	297,984

Next, the available hours (from Table 3.4) were allocated between resident hours and non-resident employment hours, as displayed in Table 3.5.

**TABLE 3.5**

**TOTAL RESIDENCE AND NON-RESIDENT EMPLOYMENT RELATED  
AVAILABILITY OF PARKS AND RECREATION FACILITIES**

	<u>Hours</u>	<u>% of Total</u>
<u>Resident</u>		
Non-Employed Adult	91,400	
5-17 Kids	51,929	
Live In/Work In	35,202	
Live In/Work Out	<u>64,037</u>	
sub-total	242,568	81.40%
<u>Non-Resident</u>		
Non-Resident Employee	55,416	18.60%

Finally, the Non-Resident Employee to Resident Parks Demand Ratio was calculated by dividing the total of non-resident employment hours by the total for resident hours (from Table 3.5), with results summarized in Table 3.6, page 10.

**TABLE 3.6****NON RESIDENT EMPLOYEE-TO-RESIDENT PARKS DEMAND RATIO**

Weighted Average Hours/Non-Resident Employment		Weighted Average Weighted Average Hours/Residents		Non-Resident Employment % to Resident Demand
55,416	÷	242,568	=	22.8%

**D. Facility Needs**

The Tigard Park System Master Plan (July 1999) included a 10-year Capital Improvement Plan (Table 11) that was not adopted by the City, pending updating the SDC Methodology. The Master Plan also included a recommended Level of Service (LOS) standard of 11.0 acres per 1,000 persons that was not adopted, but instead is “viewed by the Council as a visionary goal or ideal standard”. The facility needs identified in the “Bull Mountain Annexation White Paper on Parks and Open Spaces” have been combined with major needs included in the Master Plan to develop the Parks Capacity Improvements Program included as Appendix A to this report.

Table 3.7, below, presents a summary of facility needs through the year 2008, both for growth and to repair deficiencies for current residents and employees. The “Current Need” is the proportionate share needed to provide facilities to current residents and employees (if applicable) at the levels of service planned for the year 2008. The “Growth Need” is the proportionate share needed to provide facilities to future residents and employees (if applicable) at the planned levels of service for 2008.

**TABLE 3.7****FACILITY NEEDS FOR POPULATION AND  
EMPLOYMENT GROWTH AND DEFICIENCY REPAIR**

Facility Type	Planned LOS (Units/1000)	Current Inventory	Current Need	Surplus or (Deficiency)	2008 Need	Growth Need
Neighborhood Parks (acres)	0.68	19.06	36.21	(17.15)	39.80	3.59
Community Parks (acres)	1.81	102.87	112.03	(9.16)	122.87	10.84
Greenways (acres)	3.25	173.00	201.05	(28.06)	220.50	19.44
Linear Parks (acres)	<u>0.81</u>	<u>52.22</u>	<u>50.14</u>	<u>2.08</u>	<u>55.00</u>	<u>2.78</u>
Total Acres	6.55	347.15	399.43	52.29	438.17	36.65
Trails (miles)	0.19	8.00	11.95	(3.95)	13.11	1.16



There are deficiencies in the number of acres of Neighborhood Parks, Community Parks, and Greenways; and in the miles of Trails available to serve current residents and employees. Improvement fee SDC revenues must be used only for growth needs, and may not be used to remedy deficiencies. Alternative non-SDC revenues must be used to repair deficiencies.

### ***E. New Facility Costs***

The SDC Parks Capacity Improvements Program (PCIP), included as Appendix A, identifies new facilities needed to serve parks and recreation needs of the City through the year 2008. Table 3.8, below, shows a breakout of residential and non-residential share of costs for these new facilities. Because employees need fewer facilities than those required for a resident, the residential share of growth costs is 88.1% of the total for those facilities that benefit both residential and non-residential development (i.e., community parks, linear parks, etc.), and 100% for those facilities that benefit residential development only (e.g., neighborhood parks).

**TABLE 3.8**  
**RESIDENTIAL AND NON-RESIDENTIAL  
GROWTH-REQUIRED NEW FACILITY COSTS**

<u>Facility</u>	<u>Cost Per Unit</u>	<u>Total New Facility Costs</u>	<u>New Facility Growth Costs</u>	<u>Residential Growth Costs</u>	<u>Non-Residential Growth Costs</u>
Neighborhood Parks (acres)*	\$410,000	\$8,503,400	\$1,472,310	\$1,472,310	\$ 0
Community Parks (acres)**	440,000	8,800,000	4,769,600	4,202,018	567,582
Greenways (acres)***	130,000	6,175,000	2,527,200	2,226,463	300,737
Linear Parks (acres)#	230,000	639,400	639,400	563,311	76,089
Trails (miles)##	520,000	<u>2,657,200</u>	<u>603,200</u>	<u>531,419</u>	<u>71,781</u>
Totals		\$26,775,000	\$10,011,710	\$8,995,521	\$1,016,189
Percentage of Growth Costs				89.8%	10.2%

\* Neighborhood Parks are considered to benefit residential population only; cost per unit is based on land at \$250,000 per acre and development at \$160,000 per acre. Land cost estimate is based on a review of recent similar acquisitions by the cities of Sherwood, Tigard, Tualatin and Hillsboro, and by the Tualatin Hills Park & Recreation District. Development cost assumes that approximately \$10,000 per acre in costs will be donated through tree mitigation.

\*\* Community Parks cost is based on \$250,000 per acre for acquisition and \$190,000 for development. Land cost estimate is based on a review of recent acquisitions in the cities of Sherwood, Tigard, Tualatin and Hillsboro, and by the Tualatin Hills Park & Recreation District. Development cost assumes that approximately \$10,000 per acre in costs will be donated through tree mitigation.

\*\*\* Greenways cost of \$130,000 per acre is based on a review of recent similar acquisitions in the cities of Sherwood, Tigard, Tualatin and Hillsboro, and by the Tualatin Hills Park & Recreation District. Greenways cost assumes that approximately \$10,000 per acre in costs will be donated through tree mitigation.

# Linear Parks cost is based on \$140,000 per acres for acquisition and \$90,000 per acre for development. Development cost assumes that approximately \$10,000 per acre in costs will be donated through tree mitigation.

## Trails costs include land acquisition at approximately \$70,000 per mile (1/2 acre per mile), and development at \$450,000 per mile. Land cost estimate is based on a review of recent similar acquisitions in the cities of Sherwood, Tigard, Tualatin and Hillsboro, and by the Tualatin Hills Park & Recreation District.

## ***F. Compliance/Administrative Costs***

The City incurs costs in the development and administration of the SDCs and may recoup a portion of those costs in accordance with ORS 223.307(5). Compliance/administrative costs during the 5-year collection period have been estimated as follows:

Master Plan Update (\$100,000 for consulting and staff services)	\$100,000
Annual PCIP Management, Accounting and Reporting Costs (approximately \$10,000 per year for consulting, legal, audit, financial reporting and staff services)	\$50,000
SDC Methodology Reviews and Update	<u>\$15,000</u>
Total Estimated 5-year Compliance/Administrative Costs	\$165,000

These costs are allocated between population and employment based on the growth share percentages included in Table 3.8, page 11, and are shown in Table 3.9, below.

**TABLE 3.9**

### **COMPLIANCE/ADMINISTRATIVE COST ALLOCATIONS**

<u>Type of Development</u>	<u>Share of Growth Costs</u>	<u>Estimated 5-year Compliance/Administrative Costs</u>	<u>Compliance/Administrative Cost Allocation</u>
Population (Residential)	89.8%	\$165,000	\$148,252
Employment (Non-residential)	10.2%	\$165,000	\$16,782

#### 4.0 RESIDENTIAL PARKS AND RECREATION SDC RATES

The City's Residential Parks and Recreation SDC rates are calculated using a series of sequential formulas which, when completed, yield the total SDC rates for each new dwelling unit in the City. The formulas identify:

- a) the net residential SDC-eligible costs (Formula 4a, below)
- b) the residential improvements cost per capita (Formula 4b, page 14),
- c) the residential improvements cost per dwelling unit (Formula 4c, page 14),
- d) the residential SDC tax credit per dwelling unit (Formula 4d, page 15), and
- e) the residential SDC per dwelling unit (Formula 4e, page 16).

The Residential SDC rate is an "improvement fee" only, and does not include a "reimbursement fee" component.

##### ***A. Formula 4a: Net Residential SDC Eligible Costs***

The net residential SDC-eligible costs are calculated by adding the residential portion of growth-required improvements cost (identified in Table 3.8, page 11) and Compliance/Administrative Costs (Table 3.9, page 12).

$$\begin{array}{rcccl} & \text{Residential} & & \text{Compliance/} & \\ & \text{New Facility} & + & \text{Administrative} & = \text{Net Residential} \\ & \text{Costs} & & \text{Costs} & \text{SDC - Eligible} \\ & & & & \text{Costs} \end{array}$$

Table 4.1 presents the calculation of the net total SDC-eligible costs.

**TABLE 4.1**

##### **NET RESIDENTIAL SDC-ELIGIBLE COSTS**

	Residential SDC <u>Eligible Costs</u>
Growth-Required Facilities	\$8,995,521
PLUS: Compliance/Administrative Costs	<u>\$148,252</u>
EQUALS: Total Growth-Required Costs	\$9,143,774

***B. Formula 4b: Residential Improvements Cost Per Capita***

The residential improvements cost per capita is calculated by dividing the net residential SDC-eligible portion of growth-required improvements cost (identified in Table 4.1, page 13) by the increase in the City's population expected to be created by new development through 2008 (from Table 3.1, page 6).

$$\begin{array}{rcccl} & \text{Net Residential} & & & \text{Residential} \\ & \text{SDC-Eligible} & \div & \text{Population} & = \text{Improvements Cost} \\ 4b. & \text{Costs} & & \text{Increase} & \text{Per Capita} \end{array}$$

Table 4.2 presents the calculation of the facilities cost per capita.

**TABLE 4.2**

**RESIDENTIAL IMPROVEMENTS COST PER CAPITA**

	<u>Residential SDC Eligible Costs</u>		<u>Population Increase</u>		<u>Residential Improvements Cost Per Capita</u>
Net Residential SDC-Eligible Costs	\$9,143,774	÷	5,268	=	\$1,736

***C. Formula 4c: Residential Improvements Cost Per Dwelling Unit***

The residential improvements cost per dwelling unit is calculated by multiplying the average number of persons per dwelling unit (from Table 3.2, page 7) by the residential improvements cost per capita (from Table 4.2, above).

$$\begin{array}{rcccl} & & & \text{Residential} & \text{Residential} \\ & & & \text{Improvements Cost} & \text{Improvements Cost Per} \\ 4c. & \text{Persons Per} & \times & \text{Per Capita} & \text{Dwelling Unit} \\ & \text{Dwelling Unit} & & & \end{array}$$

The results of these calculations are displayed in Table 4.3, page 15.

**TABLE 4.3**

**RESIDENTIAL IMPROVEMENTS COST PER DWELLING UNIT**

<u>Type of Dwelling Unit</u>	<u>Average Persons Per Dwelling Unit</u>	<u>X</u>	<u>Total Residential Cost Per Capita</u>	<u>=</u>	<u>Residential Improvements Cost Per Dwelling Unit</u>
Single-Family:	2.67		\$1,736		\$4,634
Multi-Family:	1.86		\$1,736		\$3,228
Manufactured Housing:	1.81		\$1,736		\$3,142

***D. Formula 4d: Residential SDC Tax Credit Per Dwelling Unit***

Debt instruments will likely be used as a future source for funding capacity improvements. A portion of funds used to repay these debts may come from property taxes paid by growth. A tax credit has been calculated to account for potential payments in order to avoid charging growth twice; once through the SDC, and a second time through property taxes. A credit has been calculated for each type of dwelling unit using the following assumptions:

- \$17.5M in 20 year G.O. bonds at 5.5 %, \$3.5M to be issued in 2007,
- 6.0% average annual increase in total City property valuation for taxes,
- 3.0% annual increase in assessed property valuations,
- 3.0% annual inflation (decrease in value of money),
- Average 2003 property valuations for new construction at \$250,000 for single family, \$60,000 for multi-family, and \$85,000 for manufactured housing units (\$75,000 for unit, \$10,000 for lot)

$$\begin{array}{rcl} & \text{Present Value} & \text{SDC Tax} \\ 4d. & \text{of Future Property} & = \text{Credit Per} \\ & \text{Tax Payments} & \text{Dwelling Unit} \end{array}$$

The amounts of these credits are shown in Table 4.4, page 16.

**TABLE 4.4**

**TAX CREDIT PER DWELLING UNIT**

<u>Type of Dwelling Unit</u>	<u>Tax Credit Per Dwelling Unit</u>
Single-Family:	\$881
Multi-Family:	\$211
Manufactured Housing:	\$166

***E. Formula 4e: Residential SDC Per Dwelling Unit***

The residential SDC rate per dwelling unit is calculated by subtracting the tax credit per dwelling unit (Table 4.4, above) from the residential improvements cost per dwelling unit (Table 4.3, page 15).

$$\begin{array}{rcccl} & \text{Residential} & & \text{SDC Tax} & \\ & \text{Improvements Cost} & - & \text{Credit Per} & = \\ 4e. & \text{Per Dwelling Unit} & & \text{Dwelling Unit} & \\ & & & & \text{Residential} \\ & & & & \text{SDC Per} \\ & & & & \text{Dwelling Unit} \end{array}$$

The results of these calculations are shown in Table 4.5, below.

**TABLE 4.5**

**RESIDENTIAL SDC PER DWELLING UNIT**

<u>Type of Dwelling Unit</u>	<u>Residential Improvements Cost Per Dwelling Unit</u>	<u>-</u>	<u>SDC Tax Credit Per Dwelling Unit</u>	<u>=</u>	<u>Residential SDC Per Dwelling Unit</u>
Single-Family:	\$4,634		\$881		\$3,753
Multi-Family:	\$3,228		\$211		\$3,017
Manufactured Housing:	\$3,142		\$166		\$2,976

## **5.0 NON-RESIDENTIAL SDC RATES**

The City's Non-Residential Parks and Recreation SDC rates are calculated using a series of sequential formulas which, when completed, yield the total SDC rates for each new employee added by new development in the City. The formulas identify:

- a) the Non-Residential Improvements Cost Per Employee (Formula 5a, below),
- b) the Tax Credit Per Employee (Formula 5b, page 18); and
- c) the Non-Residential SDC Per Employee (Formula 5c, page 18).

The Non-Residential SDC rates is an "improvement fee" only and does not include a "reimbursement fee" component. The SDC rates are based on costs required for and benefits received by new development only, and do not assume that costs are necessarily incurred for capital improvements when an employer hires an additional employee. SDCs are charged for the activity of development, not employment, and the non-residential parks SDCs are based the impacts new capacity for employees will have on the need for parks facilities.

### ***A. Formula 5a: Net Non-Residential SDC Eligible Costs***

The net non-residential SDC-eligible costs are calculated by adding the non-residential portion of growth-required improvements cost (identified in Table 3.8, page 11) and Compliance/Administrative Costs (Table 3.9, page 12).

$$\begin{array}{rcccl} \text{Non-Residential} & & \text{Compliance/} & & \text{Net Non-Residential} \\ \text{5a. New Facility} & + & \text{Administrative} & = & \text{SDC - Eligible} \\ \text{Costs} & & \text{Costs} & & \text{Costs} \end{array}$$

Table 5.1 presents the calculation of the net total SDC-eligible costs.

**TABLE 5.1**

### **NET RESIDENTIAL SDC-ELIGIBLE COSTS**

	Non-Residential SDC <u>Eligible Costs</u>
Growth-Required Facilities	\$1,016,189
PLUS: Compliance/Administrative Costs	<u>\$16,748</u>
EQUALS: Total Growth-Required Costs	\$1,032,936

**B. Formula 5b: Non-Residential Improvements Cost Per Employee**

The Non-Residential Improvements Cost Per Employee is calculated by dividing the net non-residential SDC-eligible costs (from Table 5.1, page 17) by the increase in the City's employment expected to be created by new development through 2008 (from Table 3.1, page 6).

$$\begin{array}{rcccl} \text{5b.} & \text{Net Non-Residential} & & \text{Employment} & & \text{Non-Residential} \\ & \text{SDC-Eligible} & \div & \text{Increase From} & = & \text{Improvements Cost} \\ & \text{Costs} & & \text{Development} & & \text{Per Employee} \end{array}$$

Table 5.2 presents the calculation of the Non-Residential Improvements Cost Per Employee.

**TABLE 5.2**

**NON-RESIDENTIAL IMPROVEMENTS COST PER EMPLOYEE**

	Net Non-Residential SDC <u>Eligible Costs</u>		Employment <u>Increase</u>		Non- Residential Improvements Cost <u>Per Employee</u>
Growth-Required Facilities	\$1,032,936	÷	3,134	=	\$330

**C. Formula 5c: Non-Residential Tax Credit Per Employee**

Debt instruments will likely be used as a future source for funding capacity improvements. A portion of funds used to repay these debts may come from property taxes paid by growth. A tax credit has been calculated to account for potential payments in order to avoid charging growth twice; once through the SDC, and a second time through property taxes. A credit has been calculated for each type of dwelling unit using the following assumptions:

- \$17.5M in 20 year G.O. bonds at 5.5 %, \$3.5M to be issued in 2007,
- 6.0% average annual increase in total City property valuation for taxes,
- 3.0% annual increase in assessed property valuations,
- 3.0% annual inflation (decrease in value of money),
- Average 2003 property valuation for non-residential (office) development at \$45 per square foot,
- An average of 470 square feet per employee (retail)

$$\begin{array}{rcccl} \text{5c.} & \text{Present Value of} & & \text{Tax} & \\ & \text{Tax Payments Per} & = & \text{Credit Per} & \\ & \text{Employee} & & \text{Employee} & \end{array}$$



The amount of this credit is shown in Table 5.3, below.

**TABLE 5.3**

### TAX CREDIT PER EMPLOYEE

		Tax Credit Per <u>Employee</u>
Present Value of Tax Payments	=	\$75

***D. Formula 5d: Non-Residential SDC Per Employee***

The non-residential SDC rate per employee is calculated by subtracting the tax credit per employee (from Table 5.3, above) from the improvements cost (Table 5.2, page 18).

5d.	Non-Residential Improvements Cost Per Employee	-	SDC Tax Credit Per Employee	=	Non-Residential SDC Per Employee
-----	--	---	-----------------------------------	---	--

The results of these calculations are shown in Table 5.4, below.

**TABLE 5.4**

### NON-RESIDENTIAL SDC PER EMPLOYEE

Improvements Cost Per <u>Employee</u>	-	Tax Credit Per <u>Employee</u>	=	Non-Residential SDC <u>Per Employee</u>
\$330		\$75		\$255

The parks and recreation SDC for a particular non-residential development is determined by:

- 1) dividing the total building space (square feet) in the development by the number of square feet per employee (from the guidelines in Table 5.5, page 20), and
- 2) multiplying the result (from step 1) by the Non-Residential SDC Per Employee (from Table 5.4, above).

For example, the parks and recreation SDC for a 40,000 square foot office building for services such as finance and real estate would be calculated as follows:

- 1)  $40,000 \text{ (sq. ft. building size)} \div 370 \text{ (sq. ft. per employee)} = 108 \text{ employees,}$
- 2)  $108 \text{ employees} \times \$255 \text{ (SDC rate)} = \$27,540.$

For non-residential development where more than one SIC may be used, multiple SICs may be applied based on their percentage of the total development.

**TABLE 5.5**

**SQUARE FEET PER EMPLOYEE**  
(recommended guidelines from *Metro Employment Density Study*)

Standard Industry Classification (SIC)*		Square Feet Per Employee	Standard Industry Classification (SIC)		Square Feet Per Employee
1 - 19	Ag., Fish & Forest Services; Construction; Mining	590	37	Transportation Equipment	700
20	Food & Kindred Products	630	40 - 42,		
22,23	Textile & Apparel	930	44, 45, 47	Transportation and Warehousing	3,290
24	Lumber & Wood	640	43, 46, 48,		
25, 32,			49	Communications and Public Utilities	460
39	Furniture; Clay, Stone, & Glass; Misc.	760	50, 51	Wholesale Trade	1,390
26	Paper and Allied	1,600	52 - 59	Retail Trade	470
27	Printing, Publishing & Allied	450	60 - 68	Finance, Insurance & Real Estate	370
28 - 31	Chemicals, Petroleum, Rubber, Leather	720	70 - 79	Non-Health Services	770
33, 34	Primary & Fabricated Metals	420	80	Health Services	350
35	Machinery Equipment	300	81 - 89	Educational, Social, Membership Services	740
36, 38	Electrical Machinery, Equipment	400	90 - 99	Government	530

\* Source: U.S. Department of Commerce Standard Industrial Classification Manual

## **6.0 ANNUAL RATE ADJUSTMENTS**

City of Tigard Resolution No. 01-13 provides for annual adjustments to parks SDC rates to account for changes in the costs of acquiring and constructing parks facilities. The SDC rate adjustment is based on two factors: (1) the change in average market value of residential land in Washington County, and (2) the change in construction costs according to the Engineering News Record (ENR) Northwest (Seattle, Washington) Construction Cost Index. The weight given to each factor should be modified as needed to reflect the portion each factor represents of total costs in the Parks Capacity Improvements Plan (Appendix A).

# APPENDIX A

SDC PARKS CAPACITY IMPROVEMENTS PROGRAM								page 1 of 5
City of Tigard								draft as of 11/09/04
Parks and Recreation Facilities								
2004 - 2008								
		TOTAL	%	SDC-ELIGIBLE	%	OTHER	PROJECT	
		PROJECT	GROWTH	PORTION	OTHER	PORTION	FUNDING	
PROJECT	YRS	COST	NEED	OF TOTAL COST	NEED	OF TOTAL COST	SOURCES	
NEIGHBORHOOD PARKS								
1 Bull Mountain Neighborhood Park Site Acquisition	04-08	\$750,000	40%	\$299,250	60%	\$450,750	SDC, Grants, Donations	
- acquire approximately 3 acres for a neighborhood park to							Bonds, Partnerships, LI	
meet growth and non-growth needs in Bull Mountain.							Sponsorships, Other	
2 Bull Mountain Neighborhood Park Site Acquisition	04-08	\$750,000	40%	\$299,250	60%	\$450,750	SDC, Grants, Donations	
- acquire approximately 3 acres for a neighborhood park to							Bonds, Partnerships, LI	
meet growth and non-growth needs in Bull Mountain.							Sponsorships, Other	
3 Bull Mountain Neighborhood Park Site Acquisition	04-08	\$750,000	40%	\$299,250	60%	\$450,750	SDC, Grants, Donations	
- acquire approximately 3 acres for a neighborhood park to							Bonds, Partnerships, LI	
meet growth and non-growth needs in Bull Mountain.							Sponsorships, Other	
4 Bull Mountain Neighborhood Park Development	04-08	\$480,000	40%	\$191,520	60%	\$288,480	SDC, Grants, Donations	
- develop a neighborhood park of approximately 3 acres							Bonds, Partnerships, LI	
to meet growth and non-growth needs in Bull Mountain.							Sponsorships, Other	
5 Bull Mountain Neighborhood Park Development	04-08	\$480,000	40%	\$191,520	60%	\$288,480	SDC, Grants, Donations	
- develop a neighborhood park of approximately 3 acres							Bonds, Partnerships, LI	
to meet growth and non-growth needs in Bull Mountain.							Sponsorships, Other	
6 Bull Mountain Neighborhood Park Development	04-08	\$480,000	40%	\$191,520	60%	\$288,480	SDC, Grants, Donations	
- develop a neighborhood park of approximately 3 acres							Bonds, Partnerships, LI	
to meet growth and non-growth needs in Bull Mountain.							Sponsorships, Other	

## APPENDIX A

SDC PARKS CAPACITY IMPROVEMENTS PROGRAM								page 2 of 5
City of Tigard								draft as of 11/09/04
Parks and Recreation Facilities								
2004 - 2008								
		TOTAL	%	SDC-ELIGIBLE	%	OTHER	PROJECT	
		PROJECT	GROWTH	PORTION	OTHER	PORTION	FUNDING	
	PROJECT	YRS	COST	NEED	OF TOTAL COST	NEED	OF TOTAL COST	SOURCES
NEIGHBORHOOD PARKS								
7	Neighborhood Park Site Acquisition - acquire approximately 3 acres for a neighborhood park to meet non-growth needs in the City.	04-08	\$750,000	0%	\$0	100%	\$750,000	Grants, Donations Bonds, Partnerships, LI Sponsorships, Other
8	Neighborhood Park Site Acquisition - acquire approximately 3 acres for a neighborhood park to meet non-growth needs in the City.	04-08	\$750,000	0%	\$0	100%	\$750,000	Grants, Donations Bonds, Partnerships, LI Sponsorships, Other
9	Neighborhood Park Site Acquisition - acquire approximately 3 acres for a neighborhood park to meet non-growth needs in the City.	04-08	\$750,000	0%	\$0	100%	\$750,000	Grants, Donations Bonds, Partnerships, LI Sponsorships, Other
10	Neighborhood Park Site Acquisition - acquire approximately 2.74 acres for a neighborhood park to meet non-growth needs in the City.	04-08	\$685,000	0%	\$0	100%	\$685,000	Grants, Donations Bonds, Partnerships, LI Sponsorships, Other
11	Neighborhood Park Site Development - develop a neighborhood park of approximately 3 acres to meet non-growth needs in the City.	04-08	\$480,000	0%	\$0	100%	\$480,000	Grants, Donations Bonds, Partnerships, LI Sponsorships, Other
12	Neighborhood Park Site Development - develop a neighborhood park of approximately 3 acres to meet non-growth needs in the City.	04-08	\$480,000	0%	\$0	100%	\$480,000	Grants, Donations Bonds, Partnerships, LI Sponsorships, Other

# APPENDIX A

SDC PARKS CAPACITY IMPROVEMENTS PROGRAM								page 3 of 5
City of Tigard								draft as of 11/09/04
Parks and Recreation Facilities								
2004 - 2008								
		TOTAL	%	SDC-ELIGIBLE	%	OTHER	PROJECT	
		PROJECT	GROWTH	PORTION	OTHER	PORTION	FUNDING	
PROJECT	YRS	COST	NEED	OF TOTAL COST	NEED	OF TOTAL COST	SOURCES	
NEIGHBORHOOD PARKS								
13	Neighborhood Park Site Development	04-08	\$480,000	0%	\$0	100%	\$480,000	Grants, Donations
	- develop a neighborhood park of approximately 3 acres							Bonds, Partnerships, LI
	to meet non-growth needs in the City.							Sponsorships, Other
14	Neighborhood Park Site Development	04-08	\$438,400	0%	\$0	100%	\$438,400	Grants, Donations
	- develop a neighborhood park of approximately 2.74 acres							Bonds, Partnerships, LI
	to meet non-growth needs in the City.							Sponsorships, Other
COMMUNITY PARKS								
15	Bull Mountain Community Park Site Acquisition	04-08	\$5,000,000	54%	\$2,710,000	46%	\$2,290,000	SDC, Grants, Donations
	- acquire approximately 20 acres for a Community Park							Bonds, Partnerships, LI
	to meet growth (10.84) and non-growth (9.16)							Sponsorships, Other
	needs in Bull Mountain.							
16	Bull Mountain Community Park Development	04-08	\$3,800,000	54%	\$2,059,600	46%	\$1,740,400	SDC, Grants, Donations
	- develop a community park of about 20 acres in size							Bonds, Partnerships, LI
	to meet growth (10.84) and non-growth (9.16)							Sponsorships, Other
	needs in Bull Mountain.							

## APPENDIX A

SDC PARKS CAPACITY IMPROVEMENTS PROGRAM							page 4 of 5	
City of Tigard							draft as of 11/09/04	
Parks and Recreation Facilities								
2004 - 2008								
		TOTAL	%	SDC-ELIGIBLE	%	OTHER	PROJECT	
		PROJECT	GROWTH	PORTION	OTHER	PORTION	FUNDING	
PROJECT	YRS	COST	NEED	OF TOTAL COST	NEED	OF TOTAL COST	SOURCES	
GREENWAYS								
17	Greenways Acquisition - acquire approximately 47.5 acres of greenways to meet growth (19.44) and non-growth (28.06) needs in the City planning area.	04-08	\$6,175,000	41%	\$2,527,200	59%	\$3,647,800	SDC, Grants, Donations, Bonds, Partnerships, LI Sponsorships, Other
TRAILS								
18	Trails Acquisition/Development - acquire/develop approximately 5.11 miles of trails to meet growth (1.16) and non-growth (3.95) needs.	04-08	\$2,657,200	23%	\$603,200	77%	\$2,054,000	SDC, Grants, Donations, Bonds, Partnerships, LI Sponsorships, Other
LINEAR PARKS								
19	Linear Parks Acquisition/Development - acquire/develop approximately 2.78 acres of linear parks to meet growth needs in the City planning area.	04-08	\$639,400	100%	\$639,400	0%	\$0	SDC, Grants, Donations, Bonds, Partnerships, LI Sponsorships, Other

# APPENDIX A

SDC PARKS CAPACITY IMPROVEMENTS PROGRAM							page 5 of 5
City of Tigard							draft as of 11/09/04
Parks and Recreation Facilities							
2004 - 2008							
		TOTAL	%	SDC-ELIGIBLE	%	OTHER	
		PROJECT	GROWTH	PORTION	OTHER	PORTION	
	PROJECT	YRS COST	NEED	OF TOTAL COST	NEED	OF TOTAL COST	
	TOTALS	\$26,775,000	37.39%	\$10,011,710	62.61%	\$16,763,290	
	Neighborhood Parks	\$8,503,400	17.31%	\$1,472,310	82.69%	\$7,031,090	
	Community Parks	\$8,800,000	54.20%	\$4,769,600	45.80%	\$4,030,400	
	Greenways	\$6,175,000	40.93%	\$2,527,200	59.07%	\$3,647,800	
	Trails	\$2,657,200	22.70%	\$603,200	77.30%	\$2,054,000	
	Linear Parks	\$639,400	100.00%	\$639,400	0.00%	\$0	
	Totals	\$26,775,000	37.39%	\$10,011,710	62.61%	\$16,763,290	

—

[illegible]



# Don Ganer & Associates, Inc.

PO Box 91491  
Portland, OR 97291  
Phone: (503) 690-8981  
Fax: (503) 645-8543  
DGaner@GanerAssociates.com

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November 9, 2004

Mr. Dan Plaza, Parks Manager  
City of Tigard  
13125 SW Hall Blvd.  
Tigard, OR 97223

RE: Recommendation for Resolving HBA Issues Regarding Parks SDC Update

Dear Dan:

Following are the issues and recommendations we discussed at our meeting on November 2, 2004 to resolve HBA issues identified during our October 27, 2004 meeting with Tim Roth and Ernie Platt.

1. HBA inquired about the source of projects included in CIP list - the HBA requested copies of the adopted Tigard Park System Master Plan and the Bull Mountain Annexation White Paper on Parks and Open Spaces.

RECOMMENDED RESOLUTION: Staff will provide copies of these documents to HBA.

2. HBA was concerned with both the number of acres and the total estimated cost for Greenways - HBA suggested these numbers could be reduced if private buffers and/or tree mitigation requirements are considered as greenways.

RECOMMENDED RESOLUTION: Staff said that City residents have consistently expressed a desire to increase the amount of greenspace in the City, so reducing the acreage included in the SDC calculations is not recommended. Developers are allowed to receive credits against the parks SDCs for the donation of greenways, and these donations reduce the SDC costs for developers. Staff estimates that the parks development cost for trees is approximately \$6,000 to \$10,000 per acre. Staff recommends that the City review the impact on the proposed SDC rates if the costs per acre for greenways and for park development were reduced by \$10,000 to account for tree mitigation requirements. The impacts of these changes on the parks SDC rates are shown on the following page.

Mr. Dan Plaza  
November 9, 2004  
page 2

IMPACTS OF \$10,000 PER ACRE COST  
REDUCTION ON PROPOSED PARKS SDC RATES

	<u>SDC Rates in Draft 9/22/04 Report</u>	<u>SDC Rates with a \$10,000 per acre Cost Reduction</u>
Single Family	\$3,893	\$3,753
Multi-Family	\$3,126	\$3,017
Manufactured Housing	\$3,083	\$2,976
Employee	\$265	\$255

Please let me know if you have questions or need any additional information.

Sincerely,



Don Ganer, President  
Don Ganer & Associates, Inc.

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE: Comprehensive Plan Update Process Discussion

PREPARED BY: Barbara Shields DEPT HEAD OK [Signature] CITY MGR OK EAM for WAM

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ISSUE BEFORE THE COUNCIL

This presentation will provide an opportunity for the City Council to discuss the overall approach for the Comprehensive Plan Update Program.

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STAFF RECOMMENDATION

Initiate discussion on the scope and timeline for the Comprehensive Plan update and provide direction to staff.

---

INFORMATION SUMMARY

Tigard's Comprehensive Plan was first drafted in 1982, with periodic revisions to specific chapters to maintain consistency with Statewide Planning Goals. Each Oregon municipality is required to have a state-approved Comprehensive Plan to comply with the state land-use planning program. A work program is a description of the scope and timeline to complete a specific project.

The Comprehensive Plan is the community's plan: it allows citizens of Tigard to make choices on how land development and redevelopment should occur, and how it will be managed. From 1982, when the Plan was first created, to 2003, Tigard's population grew from 17,700 to 45,000. Most individuals' goals have changed since 1982; why wouldn't the community's change as well? In the last several years, the City has been engaged in several major planning projects, ranging from the Washington Square Regional Center Implementation Program, Transportation System Plan, natural resource and green spaces/natural resource management, Bull Mountain annexation, commuter rail/downtown redevelopment, Hwy 217 corridor planning, UGB expansion, and affordable housing. With these long term planning projects and the changes in the community, there is a need take a look at the overall growth management approach to reflect the community's goals in a broader context.

The "broader" context should re-examine several growth management areas:

1. Residential Land Analysis
2. Natural Resource/Open Space/Recreation
3. Economic Development
4. Transportation/Traffic
5. Facilities Planning

Between December 2002 and April 2004, the Planning Commission held five work sessions on the Comprehensive Plan Update work program. During this time, the Planning Commission reviewed the main elements of the plan update (Exhibit A).

The meetings resulted in the Planning Commission's preliminary recommendations for the Comprehensive Plan Update work program.

One of the key issues in undertaking the Comprehensive Plan update is the allocation of staff resources. The major effort that is currently underway is the Downtown Improvement Plan. The Downtown Improvement Plan must be completed by June 2005 to meet federal grant requirements.

Council's goal setting session is scheduled for January. The Comprehensive Plan update is an important goal that should be considered during goal setting. Goal setting could be used to begin consideration of a series of questions related to the Plan update, including the study area for the update, who should lead the update, public participation, time and resources committed to the update. These issues can be further discussed with the Planning Commission in February. The worksession with the Planning Commission is tentatively scheduled for February 15, 2005. That will be the opportunity for Council and the Commission to finalize the approach for the update of the Comprehensive Plan. The purpose of this agenda item is to start the discussion on the approach and scope of the program.

---

#### OTHER ALTERNATIVES CONSIDERED

Not applicable.

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#### VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY/ APPLICABLE COMPREHENSIVE PLAN POLICIES

Growth and Growth Management, Goal #6 The City Comprehensive Plan shall be reviewed and revised to:

- Accommodate growth while protecting the character and livability of new and established neighborhoods;
- Provide for preservation of the natural environment and open space throughout the community;
- Provide for parks and alternative transportation (e.g., bike paths); and
- Create community gathering places.

---

#### ATTACHMENT LIST

Attachment 1:	November 8, 2004 memo from Barbara Shields to Jim Hendryx regarding Comprehensive Update Program
Exhibit A:	Comprehensive Plan Update: Phase/Product/Approach
Exhibit B:	Draft Comprehensive Plan Update: Timeline (months)


---

#### FISCAL NOTES

Not applicable.

**MEMORANDUM****CITY OF TIGARD**

TO: Jim Hendryx

FROM: Barbara Shields 

DATE: November 8, 2004

SUBJECT: Comprehensive Plan Update Program

The objective of this memo is to discuss the Planning Commission's preliminary observations and recommendations for the Comprehensive Plan Update Program.

The City's Comprehensive Plan is the document through which the City makes choices on how land development and redevelopment should occur, and how it will be managed. Tigard's Comprehensive Plan was first drafted in 1982, with periodic revisions to specific chapters to maintain consistency with Statewide Planning Goals. Each Oregon municipality is required to have a state-approved Comprehensive Plan to comply with the state land-use planning program.

The Comprehensive Plan is the community's plan: it allows citizens of Tigard to make choices on how land development and redevelopment should occur, and how it will be managed. From 1982, when the Plan was first created, to 2003, Tigard's population grew from 17,700 to 45,000. Most individuals' goals have changed since 1982. The Comprehensive Plan update program needs to capture the overall change in the community to assess its relationship to the growth management issues. In the last several years, the City has been engaged in several major planning projects, ranging from the Washington Square Regional Center Implementation Program, Transportation System Plan, natural resource and green spaces/natural resource management (Goal 5), Bull Mountain annexation, commuter rail/downtown redevelopment, Hwy 217 corridor planning, UGB expansion, and affordable housing. With these long term planning projects and the changes in the community, there is a need take a look at the overall growth management approach to reflect the community's goals in a broader context.

The "broader" context should re-examine several growth management areas:

1. Residential Land Densities and Distribution
2. Natural Resource/Open Space/Recreation
3. Economic Development
4. Transportation/Traffic
5. Urban Facilities Planning

Between December 2002 and April 2004, the Planning Commission held five work sessions on the Comprehensive Plan Update work program. During this time, the Planning Commission reviewed the main elements of the plan update: public involvement; preliminary issue identification and data collection; plan update process; and plan adoption (Exhibit A). Each of these meetings was open to any interested citizens and subject to public meeting law. Meeting materials were available on the City's website.

The meetings resulted in the Planning Commission's preliminary recommendations for the Comprehensive Plan Update work program. A work program is a description of the scope and timeline to complete a specific project.

A summary of the Planning Commission recommendations is contained in the Draft Comprehensive Plan Update Timeline (Exhibit B).

The Planning Commission recognized that the overall timeline and result of the Comprehensive Plan would depend on the available resources and the extent of a public outreach program. The public outreach program needs to be adopted by the Council prior to the "production" stage of the program (Exhibit B).

The preliminary estimate is to finalize the first two phases of the Comprehensive Plan program in approximately 20-24 months, depending on the type of the public outreach and available City resources. The last two phases are estimated to be completed in approximately 12-18 months. The attached timeline reflects the preliminary recommendations developed by the Planning Commission. The Planning Commission has also recognized that there is a need for a joint meeting with the City Council to discuss several elements of the program prior to Council review and adoption of the program in April 2005:

1. Study Area. Should the unincorporated Bull Mountain area, including the newly added UGB expansion areas, be part of the Comprehensive Plan update program?
2. Task Force. Should the City Council appoint a new Task Force similar to the approach taken with the Downtown Improvement Plan to guide the Comprehensive Plan update process?
3. Public Participation Program. What type of public involvement process should the City develop to include a broad range of community groups (small group discussions, open houses, additional surveys, etc.)?
4. Time and resource commitment. How should the City prioritize the rest of the ongoing projects to assure that the Comprehensive Plan update remains the focal point of the long range planning program for the next 3+ years?

These questions are intended to be discussed with the Planning Commission in February. The outcome is the approach and scope of the Comprehensive Plan update program.

The next steps are:

1. A joint meeting with the Planning Commission and City Council in February;
2. Refinement of the work program in March;
3. Council review and adoption of the work program in April.

# Comprehensive Plan Update: Phase/Product/Approach

EXHIBIT "A"

Program Element/ Phase	Key Issues	Type/Forms of Public Involvement	Comments/ Considerations
<b>Development of Public Participation Plan/ Program</b>	<ol style="list-style-type: none"> <li>1. Determine range/variety of community groups, boards (focus groups)</li> <li>2. Task Force makeup</li> <li>3. General "message" to energize community</li> <li>4. Intensity of public outreach</li> <li>5. Role of Planning Commission, Council, Task Force, other City boards</li> </ol>	<p>Two public meetings:</p> <ol style="list-style-type: none"> <li>1. Planning Commission Workshop to review Public Outreach/Participation Program</li> <li>2. City Council meeting to adopt Public Outreach program (by resolution)</li> </ol>	<ol style="list-style-type: none"> <li>1. Number/type of group meetings must be determined as part of Public Involvement Plan</li> <li>2. Intense process/high demand on PC/CC time/meeting attendance</li> <li>3. Time commitment</li> <li>4. Realistic expectations/resources</li> </ol>
<p><b>Phase 1 Background Report</b></p> <p><b>Product:</b> "Land Use Distribution/Allocation Report" Must include: Land Use Designation Alternatives Map Land Use Inventory and Trend Analysis Report</p>	<ol style="list-style-type: none"> <li>1. Two major steps: <ul style="list-style-type: none"> <li>• Land use inventory and trends</li> <li>• Land use distribution/allocation alternatives.</li> </ul> </li> <li>2. Must be based on factual not anecdotal information .</li> <li>3. Must address residential, commercial/industrial, open space/natural resource, public facilities</li> <li>4. Must address realistic alternatives</li> <li>5. Need to establish inter-departmental technical review group(s)</li> </ol>	<ol style="list-style-type: none"> <li>1. Establish network of local experts/volunteers for data input and review; (residential; commercial/industrial; open space/natural resources)</li> <li>2. Establish six working subgroups/technical experts</li> <li>3. Task Force and Subcommittee meetings open to public</li> </ol>	<ol style="list-style-type: none"> <li>1. High demand on PC/CC time/meeting attendance</li> <li>2. Resource-intense phase: critical phase before citywide inter-active plan update process</li> <li>3. Critical phase to formulate parameters and range of realistic land use alternatives for citywide public discussion</li> </ol>

## Comprehensive Plan Update: Phase/Product/Approach

Program Element/ Phase	Key Issues	Type/Forms of Public Involvement	Comments/ Considerations
<p><b>Phase 2</b> <b>Plan Process</b></p> <p>Product: Preferred Alternative Package: 1. Preferred Land Use Designation Map 2. Goals, Policies, Implementation Strategies</p>	<p>Plan process must be structured to:</p> <ol style="list-style-type: none"> <li>1. select preferred alternative (land use allocation/distribution)</li> <li>2. goals/policies to support preferred alternative</li> <li>3. balance policies with realistic implementation strategies</li> </ol>	<p>Step 1: Series of open houses to introduce range of alternatives Step 2: Follow up small group discussion on refinements to alternatives Step 3: Series of open houses to shared preferred alternatives</p>	<ol style="list-style-type: none"> <li>1. Key/high energy point for direct public involvement</li> <li>2. Critical phase for citywide public participation to select preferred alternative</li> <li>3. Critical phase for policy discussion and development to support preferred alternative</li> <li>4. Number of open houses/group must be developed as part of Public Participation Plan</li> </ol>
<p><b>Phase 3</b> <b>Production of Draft Comprehensive Plan</b></p> <p>Product: Draft Comprehensive Plan: 1. Comprehensive Plan Land use Map 2. Comprehensive Plan Text: Goals, Policies, Implementation Strategies 3. Inventory Technical Appendixes</p>	<ol style="list-style-type: none"> <li>1. Document production phase</li> <li>2. Intensive internal review</li> <li>3. Document format</li> </ol>	<p>No involvement;</p>	<ol style="list-style-type: none"> <li>1. Document production phase;</li> <li>2. Production support is critical</li> </ol>



## Comprehensive Plan Update: Phase/Product/Approach

Program Element/ Phase	Key Issues	Type/Forms of Public Involvement	Comments/ Considerations
<b>Phase 4 Adoption of Comprehensive Plan</b>	1.Document content must meet all applicable land use laws	1. Intensive land use notification process 2. Hearings	1.Intensive land use notification 2. Process must meet legal requirements

**DRAFT****Draft Comprehensive Plan Update: Timeline [months]**

Program Phase/Task	2	4	6	8	10	12	14	16	18	20	22	24	26	28	30	32	34	36	38	40	42	44	46	48				
Development of Public Participation Plan/Program																												
1. Develop Draft Public Participation Plan																												
2. Review Draft Plan																												
3. Adopt Public Participation Plan																												
Task Force Appointed																												
BACKGROUND REPORT																												
Part I. Prepare Land Use Inventory and Trend Analysis																												
1. Population																												
2. Buildable Lands Inventory																												
3. Residential Land Analysis																												
4. Resource Analysis																												
5. Open Space/Recreation																												
6. Annexation and Urbanization																												
7. Infrastructure/Facilities																												
8. Economic Development																												
9. Transportation/Traffic																												
Part II. Develop Land Use Alternatives																												

**Major Issues:**

- Must have clear message for involvement
- Must provide wide range of options for participation
- Must reflect critical points of overall work program (critical path meetings and activities (overall program must be mapped out)
- Must be adopted by Council before public outreach/involvement begins

**Major Issues:**

- Must contain alternatives for land use designation/allocation: needs to include discussion on residential, commercial, industrial, natural resources, open space, facilities/transportation elements
- Must balance land inventory with community issues and realistic implementation options
- Must be “quality product”: solid foundations for communitywide review and discussion; credible information; refined; readable
- Must involve all key City Departments (“Technical Advisory Group”) to review/develop technical Public Works: Public Facilities, Open Space/Recreation/Natural Resource; Engineering: Transportation; Finance: implementation/funding strategies
- Information Review Loop: Technical Group develops report—Internal Staff Review—Planning Commission Review/ Task Force Review

**Major Issues:**

- Must have clear message for involvement
- Must provide wide range of options for participation
- Must reflect critical points of overall work program (critical path meetings and activities (overall program must be mapped out)
- Must be adopted by Council before public outreach/involvement begins

**Major Issues:**

- Must contain alternatives for land use designation/allocation: needs to include discussion on residential, commercial, industrial, natural resources, open space, facilities/transportation elements
- Must balance land inventory with community issues and realistic implementation options
- Must be "quality product": solid foundations for communitywide review and discussion; credible information; refined; readable
- Must involve all key City Departments ("Technical Advisory Group") to prove/develop technical reports; Public Works: Public Facilities, Open Space/Recreation/Natural Resource; Engineering: Transportation; Finance: implementation/funding strategies
- Information Review Loop: Technical Group develops report—Internal Staff Review—Planning Commission Review/ Task Force Review

Program Phase/Task	2	4	6	8	10	12	14	16	18	20	22	24	26	28	30	32	34	36	38	40	42	44	46	48				
1. Prepare Alternatives																												
2. Review Alternatives																												
3. Finalize Report																												
Background Report Published																												
<b>Plan Update Process</b>																												
I. Conduct Series of Open Houses to introduce alternatives (5-10);																												
II. Conduct Follow up Series of Small Group Workshops focused on refinements to alternatives (20-30)																												
III. Conduct Series of Open Houses to share preferred alternatives (land use distribution and policies) (3-5)																												
IV. Prepare Draft Recommendations																												
<b>Draft Recommendations Published</b>																												
<b>Plan Document Production</b>																												
I. Prepare Draft Text																												
II. Prepare Draft Maps																												
II. Finalize Inventory																												

**Major Issues:**

- Transition from Vision to Goals/Policies/Implementation programs
- Number of open houses needs to be determined as part of Public Participation Plan;
- Time/Resource Intensive process; need for skilled facilitators
- Peak point of Public Participation Program: consensus on preferred alternative

**Major Issues:**

- Document production phase: assembling all pieces in one coherent document;
- Intensive internal review; edits
- Graphic presentation; format; readable document

Program Phase/Task	2	4	6	8	10	12	14	16	18	20	22	24	26	28	30	32	34	36	38	40	42	44	46	48				
III. Finalize Technical Appendices																												
IV. Review of Draft Document																												
Draft Document Published																												
<b>Plan Adoption</b>																												
I. Prepare Notices (Measure 56, legislative notices)																												
II. Conduct Public Hearings (PC/CC)																												
III. Finalize Document																												
Plan Adopted																												

## Major Issue

- Adoption must follow land use laws
- Extensive notification required

AGENDA ITEM # 10  
FOR AGENDA OF 11/23/2004

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE: An Ordinance Providing a Process for Consideration of Written Demands for Compensation Under 2004 Ballot Measure 37, Adding a New Chapter 1.20 to the Tigard Municipal Code, and Declaring an Emergency.

PREPARED BY: Jim Hendryx DEPT HEAD OK [Signature] CITY MGR OK [Signature]

ISSUE BEFORE THE COUNCIL

Adoption of an ordinance providing a process for consideration of written demands for compensation under 2004 Ballot Measure 37, adding a new chapter to the Tigard Municipal Code and declaring an emergency.

STAFF RECOMMENDATION

Adopt ordinance.

INFORMATION SUMMARY

Oregon municipalities, including Tigard, have developed a sound system of land use planning, which includes regulations that, in some cases, restrict the uses that can be made of property. These restrictions on use of property have both served the public interest and increased property values by allowing the City to develop a harmonious way avoiding incompatible uses and assuring appropriate development. The voters of the state adopted Ballot Measure 37 in the November 2004 election adding new sections to ORS Chapter 197, which provide that local governments may pay compensation to property owners for reductions in property values, or may waive restrictions as an alternative of payment resulting from land use regulations that restrict uses of the property. Some property owners may believe that existing or future land use regulations as applied to their property both restrict use of the property and reduce the fair market value of the property and consequently may bring claims under Measure 37. Ballot Measure 37 explicitly allows local governments to develop procedures for assessing claims made under Measure 37.

Working in conjunction with the City Attorney's office, an ordinance has been drafted to address Measure 37 claims. The Tigard Municipal Code would be amended by repealing the existing Chapter 1.20 and replacing it with a new Chapter 1.20. Because this ordinance is necessary for the preservation of the health, safety, and welfare of the City and is needed to provide a process for claims by December 2, 2004, an emergency is declared to exist and this ordinance shall be in full force and effect on December 2, 2004.

OTHER ALTERNATIVES CONSIDERED

Delay consideration of ordinance or make modifications to the ordinance.

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VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Not applicable

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ATTACHMENT LIST

Attachment 1: Memo

Attachment 2: Ordinance providing a process for consideration of written demands for compensation under 2004 Ballot Measure 37, adding a new chapter to the Tigard Municipal Code and declaring an emergency.

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FISCAL NOTES


No funds have been identified to either pay demands for compensation or pay for processing Measure 37 claims.

## MEMORANDUM

### CITY OF TIGARD

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TO: City Council

FROM: Jim Hendryx 

DATE: November 16, 2004

SUBJECT: Measure 37 Ordinance

Cities and counties, including Tigard, are required to have comprehensive plans and implementing ordinances (zoning). The voters of the state adopted Ballot Measure 37 in the November 2004 election adding new sections to ORS Chapter 197, which provide that local governments may pay compensation to property owners for reductions in property values, or may waive restrictions as an alternative of payment resulting from land use regulations that restrict uses of the property. Some property owners may believe that existing or future land use regulations as applied to their property both restrict use of the property and reduce the fair market value of the property and consequently may bring claims under Measure 37. Ballot Measure 37 explicitly allows local governments to develop procedures for assessing claims made under Measure 37.

Working in conjunction with the City Attorney's office, an ordinance has been drafted to address Measure 37 claims. The Tigard Municipal Code would be amended by repealing the existing Chapter 1.20 and replacing it with a new Chapter 1.20. Because this ordinance is necessary for the preservation of the health, safety, and welfare of the City and is needed to provide a process for claims by December 2, 2004, an emergency is declared to exist and this ordinance shall be in full force and effect on December 2, 2004.

Jurisdictions throughout the state are taking different approaches to dealing with the measure. This ordinance may need further revisions over time since we are only beginning to understand the requirements of Measure 37.

## CITY OF TIGARD, OREGON

ORDINANCE NO. 04-\_\_\_\_\_

AN ORDINANCE PROVIDING A PROCESS FOR CONSIDERATION OF WRITTEN DEMANDS FOR COMPENSATION UNDER 2004 BALLOT MEASURE 37, ADDING A NEW CHAPTER 1.20 TO THE TIGARD MUNICIPAL CODE, AND DECLARING AN EMERGENCY.

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WHEREAS, the City has developed a sound system of land use planning, which includes regulations that in some cases restrict the uses that can be made of property; and

WHEREAS, the restrictions on use of property have both served the public interest and increased property values by allowing the City to develop a harmonious way avoiding incompatible uses and assuring appropriate development; and

WHEREAS, the voters of the state adopted Ballot Measure 37 in the November 2004 election adding new sections to ORS Chapter 197, which provide that local governments may pay compensation to property owners for reductions in property values resulting from land use regulations that restrict uses of the property or may waive restrictions as an alternative to paying compensation; and

WHEREAS, some property owners may believe that existing or future land use regulations as applied to their property both restrict use of the property and reduce the fair market value of the property and consequently may bring claims under Measure 37; and

WHEREAS, Ballot Measure 37 explicitly allows local governments to develop procedures for assessing claims made under Measure 37; and

WHEREAS, it is appropriate for the City to provide a Measure 37 claims procedure,

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: The Tigard Municipal Code is amended by repealing the existing Chapter 1.20 and replacing it with a new Chapter 1.20 in the form of Exhibit A attached hereto and incorporated by this reference.

SECTION 2: Because this ordinance is necessary for the preservation of the health, safety and welfare of the City and is needed to provide a process for claims by December 2, 2004, an emergency is declared to exist and this ordinance shall be in full force and effect on December 2, 2004.



PASSED: By \_\_\_\_\_ vote of all Council members present after being read by number and title only, this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Jane McGarvin, Deputy City Recorder

APPROVED: By Tigard City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Craig Dirksen, Mayor

Approved as to form:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

EXHIBIT A  
to Tigard Ordinance No. \_\_\_\_\_

**Chapter 1.20 Compensation for Reduction in Property Value**

**1.20.010 Purpose**

The purpose of this Chapter is to provide procedures and standards for claims for compensation made pursuant to 2004 Measure 37.

**1.20.020 Definitions**

As used in this chapter, unless the context requires otherwise:

"Affected property" means the private real property that is alleged to have suffered a reduction in fair market value as result of the City's regulation restricting the use of that property and for which a property owner seeks compensation for the reduction in value.

"Claimant" means the property owner who submits a written claim for compensation under Section 1.20.030.

"Decision Maker" means the City Council or any person, board, commission, or other entity to whom the Council has delegated authority to make decisions on Measure 37 claims.

"Regulation" shall mean a provision of the City's comprehensive plan, Community Development Code and transportation ordinances.

"Restricts the use of property" means prohibiting a particular use of the property or making that use only permissible under certain conditions. Regulations requiring or setting fees to be charged are not restrictions on the use of property.

"Manager" means City Manager or designee.

**1.20.030 Written Demand for Compensation**

A. A property owner wishing to make a claim against the City under Measure 37 shall first submit a written demand for compensation to the City. A written demand for compensation is one that includes:

1. Identification of the affected property. Identification may be by street address, subdivision lot number, tax lot number, or any other information that identifies the property.

2. The name and contact information of the person making the claim, the date the Claimant acquired the property, and, if applicable, the date that a family member of Claimant acquired the property and the names and relationships of family members that are previous owners.
3. Identification of the regulation that is alleged to restrict the use of the affected property, the amount of compensation claimed, and a statement whether the Claimant seeks compensation or a waiver, suspension or modification of the regulation. If a waiver or suspension or modification is requested, the extent of the waiver should be described, with a description of the proposed use.
4. The amount claimed as compensation.

B. The City encourages but does not require the person claiming compensation to include the following information with the written demand for compensation:

1. A statement describing how the restriction affects the value of the property.
2. A statement describing the extent to which the regulation would need to be waived, suspended, or modified to avoid the need for compensation.
3. An appraisal showing the difference in the property value with and without the regulation.
4. A list of all persons with an ownership interest in or a lien on the property.
5. The name and contact information of the Claimant's authorized representative or representatives, if applicable.

#### **1.20.040 Notice**

The City shall provide notice of the hearing required by Section 1.20.070 to all owners of the property, lien holders and security interest holders, record owners of property within 500 feet of the property, recognized community participation organizations for the area the property is located, and anyone who has requested notice at least 7 days before the hearing. The notice shall identify the property, state the date, time and place of the hearing, state the amount of the claim or statement describing the extent to which the regulations would need to be waived or suspended, the City contact person and phone number, advise of the availability of the staff report and summarize the hearing procedures and nature of the claim. Failure of any person to receive notice or any defect in the notice shall not invalidate any action taken or decision made at the hearing.

#### **1.20.050      Staff Report**

City staff shall prepare a report analyzing the claim. The staff report may be reviewed by the Community Development Director, Finance Director, and Manager before being submitted to the Decision Maker.

The staff report shall be submitted to the Decision Maker, mailed to the Claimant, and made available to the public at least 7 days before the public hearing required by Section 1.20.070.

#### **1.20.060      Decision Maker Proceedings**

The Decision Maker shall hold a public hearing on the claim. The public hearing should normally be set within 150 days of the written demand for compensation but may be set at any time. The Decision Maker may hold an executive session on the claim at any time.

#### **1.20.070      Public Hearing**

The Claimant and any other person shall be provided a reasonable opportunity to present evidence and argument at the public hearing. The Decision Maker may limit the duration of testimony.

#### **1.20.080      Decision Maker Decision**

In deciding the claim, the Decision Maker may take any of the following actions:

1. Deny the claim based on any one or more of the following findings:
  - a. The regulation does not restrict the use of the private real property,
  - b. The fair market value of the property is not reduced by the passage or enforcement of the regulation.
  - c. The claim was not timely filed.
  - d. The Claimant is not the current property owner.
  - e. The Claimant or family member of Claimant was not the property owner at the time the regulation was adopted.
  - f. The regulation is a historically and commonly recognized nuisance law or a law regulating pornography or nude dancing.
  - g. The regulation is required by federal law.
  - h. The regulation protects public health and safety.

- i. The City is not the entity responsible for payment. The City is not responsible if the challenged law, rule, ordinance, resolution, goal or other enactment was not enacted or enforced by the City.
  - j. The City has not taken final action to enforce or apply the regulation to the property for which compensation is claimed.
  - k. The Claimant is not legally entitled to compensation for a reason other than those listed in subsections a through g. The basis for this finding must be clearly explained.
  - l. The City has not established a fund for payment of claims under Measure 37.
2. Pay compensation, either in the amount requested or in some other amount supported by the evidence. If the City pays compensation, the City shall continue to apply and enforce the regulation. Any compensation shall be paid from funds appropriated for that purpose. The City may require any person receiving compensation to sign a waiver of future claims for compensation under Measure 37 and the City may record that waiver with the County Recorder.
  3. Waive or not apply the regulation to allow the owner to use the property for a use permitted at the time the Claimant acquired the property.
  4. Modify the regulation so that it does not give rise to a claim for compensation. Any such modification shall be as to the specific property only unless the City follows the procedure for a legislative land use decision.
  5. Conditionally waive or suspend the regulation subject to receipt of a defined amount of contributions toward compensation by a specified date from persons opposed to the waiver or suspension, such as persons who believe they would be negatively affected by waiver or suspension, with the waiver or suspension being granted if the defined amount of contributions is not received by the specified date. If the contributions are received, compensation shall be paid within 180 days of the date the written demand for compensation was filed. The specified date shall allow the City time to process the contributions and pay compensation.

The Decision Maker may take other actions it deems appropriate in individual circumstances, may modify the listed actions, and/or may combine the listed actions, consistent with Measure 37. The Decision Maker may negotiate an acceptable solution with the Claimant or may direct staff to negotiate with the Claimant. In the event that the Decision Maker directs staff to negotiate, the matter for further action by the Decision Maker no less than 175 days from the date of the notice of claim became complete. The Council shall take final action within 180 days of the written demand for compensation. The Decision Maker shall take actions 2 through 5 only if it determines the claim is valid.

A decision by a Decision Maker other than Council shall not be a final decision, but shall be a recommendation to Council.

#### **1.20.090      Delegation of Authority and City Council Review**

The Council may delegate authority to act as a Decision Maker to any person, board, commission or other entity by motion, resolution or ordinance. . The Council shall review all recommendations of the Decision Maker and make the final decision. If a Decision Maker other than Council has made a recommendation to Council, Council may act on the recommendation by motion or order without a Council hearing. The Council may approve recommendations on its consent agenda.

#### **1.20.100      Authority**

The City Council shall have the authority to take the actions listed in Section 1.20.080, including the authority to waive or suspend any provision of any City code, ordinance or resolution, notwithstanding any inconsistent provision in this code or the Community Development Code. The City may retain an appraiser to assist the Decision Maker or Council determination.

#### **1.20.110      Reimbursement of Costs**

If a claim is denied and ultimately determined to be invalid, the Claimant shall reimburse the City for the costs the City incurred in processing the claim. If the costs remain unpaid 90 days after the City provides a detailed invoice demanding reimbursement of costs, a lien for those costs shall be recorded in the City lien docket for the property for which the claim is made.

#### **1.20.120      Severability**

If any section, phrase, clause, or part of this Chapter is found to be invalid by a court of competent jurisdiction, the remaining phrases, clauses, and parts shall remain in full force and effect.